

1 S.88

2 Introduced by Senator Cummings

3 Referred to Committee on

4 Date:

5 Subject: Insurance; banking; securities

6 Statement of purpose of bill as introduced: This bill proposes to amend
7 various laws pertaining to insurance, banking, and securities.

8 An act relating to insurance, banking, and securities

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

10 Sec. 1. 8 V.S.A. § 2760b is amended to read:

11 § 2760b. PROHIBITED ACTIVITIES

12 * * *

13 (c) No person or any other entity, other than a licensee, shall use the ~~title~~
14 titles “debt adjuster,” “budget planner,” “licensed debt adjuster,” or “licensed
15 budget planner” or the ~~term~~ terms “debt adjuster,” “debt reduction,” or “budget
16 planning,” or, in each case, words of similar import in any public
17 advertisement, business card, or letterhead.

18 * * *

19 Sec. 2. 8 V.S.A. § 2102 is amended to read:

20 § 2102. APPLICATION FOR LICENSE

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(b) At the time of making an application, the applicant shall pay to the Commissioner a fee for investigating the application and a license or registration fee for a period terminating on the last day of the current calendar year. The following fees are imposed on applicants:

* * *

~~(8) For an application for any combination of lender license under chapter 73 of this title, mortgage broker license under chapter 73 of this title, loan solicitation license under chapter 73 of this title, or loan servicer license under chapter 85 of this title, \$1,500.00 as a license fee and \$1,500.00 as an application and investigation fee. [Repealed.]~~

* * *

Sec. 3. 8 V.S.A. § 2109 is amended to read:

§ 2109. ANNUAL RENEWAL OF LICENSE

(a) On or before December 1 of each year, every licensee shall renew its license or registration for the next succeeding calendar year and shall pay to the Commissioner the applicable renewal of license or registration fee. At a minimum, the licensee or registree shall continue to meet the applicable standards for licensure or registration. At the same time, the licensee or registree shall maintain with the Commissioner any required bond in the

1 amount and of the character as required by the applicable chapter. The annual
2 license or registration renewal fee shall be:

3 * * *

4 (8) ~~For any combination of lender license under chapter 73 of this title,~~
5 ~~mortgage broker license under chapter 73 of this title, loan solicitation license~~
6 ~~under chapter 73 of this title, or loan servicer license under chapter 85 of this~~
7 ~~title, \$1,700.00. [Repealed.]~~

8 * * *

9 Sec. 4. 8 V.S.A. § 2120(a)(4) is amended to read:

10 (4) If a licensee does not file its annual report on or before April 1, or
11 within any extension of time granted by the Commissioner, the licensee shall
12 pay to the Department ~~\$100.00~~ \$1,000.00 for each month or part of a month
13 that the report is past due, beginning on the date that is five business days after
14 April 1 or the last date of such extension, as applicable.

15 Sec. 5. 8 V.S.A. § 2405(a) shall be amended to read:

16 (a) ~~Each independent trust company shall annually file a report on its~~
17 ~~financial condition with the Commissioner on or before February 15 for the~~
18 ~~preceding year ending December 31~~ The Commissioner may require reports
19 from any independent trust company doing a trust business in this State,
20 containing such information, including on its financial condition, at such times
21 and in such format as the Commissioner may prescribe. ~~The Commissioner~~

1 ~~may require additional reports from any independent trust company that is~~
2 ~~doing a trust business in this State. The Commissioner may accept a copy of~~
3 ~~any report from the primary regulator of the independent trust company if the~~
4 ~~Commissioner determines that the report is substantially similar to a report~~
5 ~~required under this section.~~

6 Sec. 6. 8 V.S.A. § 2105 is amended to read:

7 § 2105. CONTENTS OF LICENSE; NONTRANSFERABLE

8 (a) A license shall state the address at which a licensee will conduct its
9 business, shall state fully the name of the licensee, and, if the licensee is not an
10 individual, shall state the date and place of its organization or incorporation.

11 (b) A mortgage loan originator license shall state fully the name of the
12 individual, his or her sponsoring company, and the licensed location ~~at~~ to
13 which he or she is ~~employed~~ assigned.

14 * * *

15 Sec. 7. 8 V.S.A. § 2122 is amended to read:

16 § 2122. USE OF OTHER NAMES OR BUSINESS PLACES

17 (a) A licensee shall not conduct business or make a loan subject to
18 regulation under this part under any other name or at any other place of
19 business than as specified in its license.

20 (b) Mortgage loan originators and employees of licensees may work
21 remotely through a licensed location without being physically present at such

1 location, provided the mortgage loan originator or employee is assigned to a
2 licensed location, is adequately supervised by the licensee, and the licensee and
3 the mortgage loan originator or employee meet such additional conditions as
4 the Commissioner may require.

5 (c) This section does not apply to a commercial loan made to a borrower
6 located outside Vermont for use outside Vermont.

7 Sec. 8. 8 V.S.A. § 2201 is amended to read:

8 § 2201. LICENSES REQUIRED

9 * * *

10 (b) A licensed mortgage loan originator shall register and maintain a valid
11 unique identifier with the Nationwide Multistate Licensing System and
12 Registry and shall be either:

13 (1) An employee actively employed at or assigned to a licensed location
14 of, and supervised and sponsored by, only one licensed lender or licensed
15 mortgage broker operating in this State.

16 (2) An individual sole proprietor who is also a licensed lender or
17 licensed mortgage broker.

18 (3) An employee engaged in loan modifications employed at or assigned
19 to a licensed location of, and supervised and sponsored by, only one third-party
20 loan servicer licensed to operate in this State pursuant to chapter 85 of this
21 title. As used in this subsection, “loan modification” means an adjustment or

1 compromise of an existing residential mortgage loan. The term “loan
2 modification” does not include a refinancing transaction.

3 * * *

4 Sec. 9. 8 V.S.A. § 4806 is amended to read:

5 § 4806. ~~SURRENDER OF LICENSE; LOSS OR DESTRUCTION~~
6 SUSPENSION, REVOCATION, OR TERMINATION OF
7 LICENSE

8 * * *

9 ~~(e) Upon suspension, revocation, or termination of a license, the licensee~~
10 ~~shall forthwith deliver it to the Commissioner by personal delivery or by mail.~~

11 ~~[Repealed.]~~

12 ~~(d) Any licensee who ceases to maintain his or her residency in this State as~~
13 ~~defined in subdivision 4800(3) of this title, shall deliver his or her insurance~~
14 ~~license or licenses to the Commissioner by personal delivery or by mail within~~
15 ~~30 days after terminating his or her residency. [Repealed.]~~

16 ~~(e) The Commissioner may issue a duplicate license for any lost, stolen, or~~
17 ~~destroyed license issued pursuant to this subchapter upon an affidavit of the~~
18 ~~licensee prescribed by the Commissioner concerning the facts of the loss, theft,~~
19 ~~or destruction. [Repealed.]~~

20 Sec. 10. 8 V.S.A. § 23(a) is amended to read:

1 (a) This section shall apply to all persons licensed, authorized, or
2 registered, or required to be licensed, authorized, or registered, under ~~Parts 2~~
3 ~~and 4~~ of this title.

4 Sec. 11. 8 V.S.A. § 8301 is amended to read:

5 § 8301. DEFINITIONS

6 As used in this chapter:

7 (1) “Adjusted risk based capital report” means a risk based capital report
8 ~~which~~ that has been adjusted by the Commissioner in accordance with
9 subsection 8302(e) of this title.

10 (2) “Commissioner” means the Commissioner of Financial Regulation.

11 (3) “Corrective order” means an order issued by the Commissioner
12 specifying corrective actions ~~which~~ that the Commissioner has determined are
13 required under this chapter.

14 (4) “Domestic insurer” means any insurance company organized in this
15 State under subchapter 1 of chapter 101 of this title, any fraternal benefit
16 society organized in this State under chapter 121 of this title, any health
17 maintenance organization organized in this State under chapter 139 of this title,
18 and any entity organized in this State under chapter 123 or 125 of this title.

19 (5) “Fraternal benefit society” means any insurance company licensed
20 under chapter 121 of this title.

1 (6) “Foreign insurer” means any entity licensed to transact business in
2 this State that is required to file a risk based capital statement in the state where
3 the entity is domiciled.

4 (7) “Health maintenance organization” means any entity organized in
5 the State under chapter 139 of this title.

6 (8) “Life or health insurer” means ~~any~~ an insurance company ~~who~~ that
7 insures lives or health as defined in subdivisions 3301(a)(1) and (2) of this
8 title, ~~any health maintenance organization organized in this State under chapter~~
9 ~~139 of this title, any~~ an entity organized in this State under chapter 123 or 125
10 of this title, or a licensed property and casualty insurer writing only accident
11 and health insurance.

12 ~~(8)~~(9) “NAIC” means the National Association of Insurance
13 Commissioners.

14 ~~(9)~~(10) “Negative trend” means, with respect to a life or health insurer
15 or fraternal benefit society, negative trend over a period of time as determined
16 in accordance with the trend test calculation included in the life or fraternal
17 risk based capital instructions.

18 ~~(10)~~(11) “Property and casualty insurer” means any insurance company
19 ~~who~~ that insures property or casualty as defined in subdivisions 3301(a)(3) and
20 (7) of this title, but shall not include monoline mortgage guaranty insurers,
21 financial guaranty insurers, ~~and~~ or title insurers.

1 ~~(11)~~(12) “Risk based capital instructions” means the risk based capital
2 report form and the related instructions adopted by the NAIC and approved by
3 the Commissioner.

4 ~~(12)~~(13) “Risk based capital level” means one of the following four
5 levels: company action level risk based capital, regulatory action level risk
6 based capital, authorized control level risk based capital, or mandatory control
7 level risk based capital.

8 (A) “Company action level risk based capital” means, with respect to
9 any insurer, the product of 2.0 and its authorized control level risk based
10 capital.

11 (B) “Regulatory action level risk based capital” means, with respect
12 to any insurer, the product of 1.5 and its authorized control level risk based
13 capital.

14 (C) “Authorized control level risk based capital” means the number
15 determined under the risk based capital formula in accordance with the risk
16 based capital instructions.

17 (D) “Mandatory control level risk based capital” means, with respect
18 to any insurer, the product of 0.70 and its authorized control level risk based
19 capital.

20 ~~(13)~~(14) “Risk based capital plan” means a comprehensive financial
21 plan containing the elements specified in subsection 8303(b) of this title. If the

1 Commissioner rejects the risk based capital plan and it is revised by the
2 insurer, with or without the Commissioner's recommendation, the plan shall be
3 called the "revised risk based capital plan."

4 ~~(14)~~(15) "Risk based capital report" means the report required in section
5 8302 of this title.

6 ~~(15)~~(16) "Total adjusted capital" means the sum of:

7 (A) the insurer's statutory capital and surplus reported in the insurer's
8 annual statement under section 3561 of this title; and

9 (B) such other items, if any, as the risk based capital instructions may
10 provide.

11 Sec. 12. 8 V.S.A. § 8302 is amended to read:

12 § 8302. RISK BASED CAPITAL REPORT

13 * * *

14 (d) A property and casualty insurer's or health maintenance organization's
15 risk based capital shall be determined in accordance with the formula set forth
16 in the risk based capital instructions. The formula shall take into account and
17 may adjust for the covariance between the following factors determined in
18 each case by applying the factors in the manner set forth in the risk based
19 capital instructions:

20 (1) asset risk;

21 (2) credit risk;

1 (3) underwriting risk; and

2 (4) all other business risks and such other relevant risks as are set forth
3 in the risk based capital instructions.

4 (e) If a domestic insurer files a risk based capital report ~~which~~ that in the
5 judgment of the Commissioner is inaccurate, then the Commissioner shall
6 adjust the risk based capital report to correct the inaccuracy and shall notify the
7 insurer of the adjustment. The notice shall contain a statement of the reason
8 for the adjustment. A risk based capital report adjusted by the Commissioner
9 under this subsection shall be referred to as an “adjusted risk based capital
10 report.”

11 Sec. 13. 8 V.S.A. § 8303 is amended to read:

12 § 8303. COMPANY ACTION LEVEL EVENT

13 (a) “Company action level event” means any of the following events:

14 (1) The filing of a risk based capital report by an insurer ~~which~~ that
15 indicates that:

16 (A) the insurer’s total adjusted capital is greater than or equal to its
17 regulatory action level risk based capital but less than its company action level
18 risk based capital;

19 (B) ~~if in the case of~~ a life or health insurer or a fraternal benefit
20 society, the insurer or society has total adjusted capital ~~which~~ that is greater
21 than or equal to its company action level risk based capital but less than the

1 product of its authorized control level risk based capital and 3.0 and has a
2 negative trend; ~~or~~

3 (C) ~~if in the case of~~ a property and casualty insurer, the insurer has
4 total adjusted capital ~~which that~~ is greater than or equal to its company action
5 level risk based capital but less than the product of its authorized control level
6 risk based capital and 3.0 and triggers the trend test determined in accordance
7 with the trend test calculation included in the property and casualty risk based
8 capital instructions; or

9 (D) in the case of a health maintenance organization, the insurer has
10 total adjusted capital that is greater than or equal to its company action level
11 risk based capital but less than the product of its authorized control level risk
12 based capital and 3.0 and triggers the trend test determined in accordance with
13 the trend test calculation included in the health risk based capital instructions.

14 (2) The notification by the Commissioner to the insurer of an adjusted
15 risk based capital report that indicates an event in subdivision (1) of this
16 subsection, provided the insurer does not challenge the adjusted risk based
17 capital report under section 8307 of this title.

18 (3) If, under section 8307 of this title, an insurer challenges an adjusted
19 risk based capital report that indicates the event in subdivision (1) of this
20 subsection, the notification by the Commissioner to the insurer that the
21 Commissioner has, after a hearing, rejected the insurer's challenge.

1 (b) An insurer shall prepare and submit to the Commissioner a risk based
2 capital plan within 45 days of filing a risk based capital report or within
3 45 days of a final adjusted risk based capital report showing a company action
4 level event. The risk based capital plan shall be a comprehensive financial
5 plan and shall:

6 (1) ~~identify~~ Identify the conditions in the insurer ~~which~~ that contribute to
7 the company action level event;

8 (2) ~~contain~~ Contain proposals of corrective actions ~~which~~ that the
9 insurer intends to take that would result in the elimination of the company
10 action level event;

11 (3) ~~provide~~ Provide projections of the insurer's financial results in the
12 current year and at least the four succeeding years, both in the absence of
13 proposed corrective actions and giving effect to the proposed corrective
14 actions, including projections of statutory operating income, net income,
15 capital, and surplus. The projections for both new and renewal business should
16 include separate projections for each major line of business and separately
17 identify each significant income, expense, and benefit component;

18 (4) ~~identify~~ Identify the key assumptions impacting the insurer's
19 projections and the sensitivity of the projections to the assumptions; ~~and~~.

20 (5) ~~identify~~ Identify the quality of, and problems associated with, the
21 insurer's business, including its assets, anticipated business growth and

1 associated surplus strain, extraordinary exposure to risk, mix of business, and
2 use of reinsurance.

3 (c) The Commissioner shall notify the insurer whether the proposed risk
4 based capital plan is approved within 60 days of its submission. If the
5 Commissioner disapproves the plan, the notice shall set forth the reasons for
6 the disapproval and may notify the insurer of revisions ~~which~~ that will render
7 the risk based capital plan satisfactory to the Commissioner. Upon notice that
8 a proposed plan is disapproved, the insurer shall prepare and submit a revised
9 risk based capital plan within 45 days of the Commissioner's notice of
10 disapproval or, if the Commissioner's notice of disapproval is appealed under
11 section 8307 of this title, within 45 days of a Commissioner's determination
12 adverse to the insurer.

13 (d) In the event of a notification by the Commissioner to an insurer that the
14 insurer's risk based capital plan or revised risk based capital plan is
15 unsatisfactory, the Commissioner may at the Commissioner's discretion,
16 subject to the insurer's right to a hearing under section 8307 of this title,
17 specify in the notification that the notification constitutes a regulatory action
18 level event.

19 (e) Each domestic insurer required to file a risk based capital plan or
20 revised risk based capital plan under this section shall file a copy of the plan

1 with the insurance commissioner in any state in which the insurer is authorized
2 to do business if:

3 (1) such state has a provision that is substantially similar to section 8308
4 of this title; ~~and~~ or

5 (2) the insurance commissioner of that state has notified the insurer of
6 its request for the filing in writing. Plans required to be filed under this
7 subdivision shall be filed ~~no~~ not later than the later of:

8 (A) 15 days after notice to file a copy of its risk based capital plan or
9 revised risk based capital plan with the state; or

10 (B) the date on which the risk based capital plan or revised risk based
11 capital plan is required to be filed under section 8304 of this title.

12 Sec. 14. 8 V.S.A. § 8307 is amended to read:

13 § 8307. HEARINGS

14 Upon receipt of any notice required under ~~subsections~~ subsection 8302(e),
15 8303(c) ~~and~~ or (d), ~~and subdivisions~~ subdivision 8304(a)(4) ~~and~~ or (5), ~~and~~ or
16 subsection 8304(c) of this title, any insurer aggrieved by any action taken
17 under those sections may appeal to the Commissioner within five days of
18 receipt of notice of the action. The hearing shall be subject to 3 V.S.A. chapter
19 25. Upon receipt of the insurer's request for a hearing, the Commissioner shall
20 set a date for the hearing, which date shall be ~~no~~ not less than 10 nor more than
21 30 days after the date of the insurer's request.

1 Sec. 15. 8 V.S.A. § 8308(a) is amended to read:

2 (a) All risk based capital reports, to the extent the information therein is not
3 required to be set forth in a publicly available annual statement schedule, and
4 risk based capital plans, including the results or report of any examination or
5 analysis of an insurer performed pursuant hereto and any corrective order
6 issued by the Commissioner pursuant to examination or analysis, with respect
7 to any domestic insurer or foreign insurer ~~which~~ that are filed with the
8 Commissioner, constitute information that might be damaging to the insurer if
9 made available to its competitors, and therefore shall be kept confidential and
10 privileged by the Commissioner. This information shall not be made available
11 for public inspection and copying under the Public Records Act, shall not be
12 subject to subpoena, shall not be subject to discovery, and shall not be
13 admissible in evidence in any private civil action. However, the Commissioner
14 is authorized to use the documents, materials, or other information for the
15 purpose of enforcement actions taken by the Commissioner under this chapter
16 or any other provision of the insurance laws of this State.

17 Sec. 16. 8 V.S.A. § 8312 is amended to read:

18 § 8312. CONFIDENTIALITY OF RISK BASED CAPITAL REPORTS

19 All risk based capital reports concerning insurance companies that are not
20 included in section 8308 of this title that are submitted to the Department by

1 the ~~National Association of Insurance Commissioners~~ NAIC or by other states
2 are confidential and ~~may~~ shall not be disclosed by the Department.

3 Sec. 17. 8 V.S.A. § 15a is amended to read:

4 § 15a. INSURANCE REGULATORY SANDBOX; INNOVATION
5 WAIVER; SUNSET.

6 * * *

7 (o) No new waivers or extensions shall be granted after July 1, ~~2024~~ 2023.

8 (p) This section shall be repealed on July 1, ~~2023~~ 2025.

9 Sec. 18. 9 V.S.A. § 5410 is amended to read:

10 § 5410. FILING FEES

11 (a) A person shall pay a fee of \$300.00 when initially filing an application
12 for registration as a broker-dealer and a fee of \$300.00 when filing a renewal
13 of registration as a broker-dealer. A separate application in writing for branch
14 office registration or renewal, accompanied by a filing fee of \$120.00 per
15 branch office, shall be filed in the Office of the Commissioner in such form as
16 the Commissioner may prescribe by any broker-dealer who transacts business
17 in this State from any place of business located within this State. ~~If the filing~~
18 ~~results in a denial or withdrawal, the Commissioner shall retain the fee~~ The fee
19 is nonrefundable.

20 (b) The fee for an individual is \$120.00 when filing an application for
21 registration as an agent, \$120.00 when filing a renewal of registration as an

1 agent, and \$120.00 when filing for a change of registration as an agent. ~~If the~~
2 ~~filing results in a denial or withdrawal, the Commissioner shall retain the fee~~
3 The fee is nonrefundable.

4 (c) A person shall pay a fee of \$300.00 when filing an application for
5 registration as an investment adviser and a fee of \$300.00 when filing a
6 renewal of registration as an investment adviser. A separate application in
7 writing for branch office registration or renewal, accompanied by a filing fee
8 of \$120.00 per branch office, shall be filed in the Office of the Commissioner
9 in such form as the Commissioner may prescribe by any investment adviser
10 who transacts business in this State from any place of business located within
11 the State. ~~If the filing results in a denial or withdrawal, the Commissioner~~
12 ~~shall retain the fee~~ The fee is nonrefundable.

13 (d) The fee for an individual is \$80.00 when filing an application for
14 registration as an investment adviser representative, \$80.00 when filing a
15 renewal of registration as an investment adviser representative, and \$80.00
16 when filing a change of registration as an investment adviser representative. ~~If~~
17 ~~the filing results in a denial or withdrawal, the Commissioner shall retain the~~
18 ~~fee~~ The fee is nonrefundable.

19 (e) A federal covered investment adviser required to file a notice under
20 section 5405 of this title shall pay an initial fee of \$300.00 and an annual
21 notice fee of \$300.00. A notice filing may be terminated by filing notice of

1 such termination with the Commissioner. ~~If a notice filing results in a denial~~
2 ~~or withdrawal, the Commissioner shall retain the fee~~ The fee is nonrefundable.

3 Sec. 19. 8 V.S.A. § 4077 is added to read:

4 § 4077. TERMINATION; COMPREHENSIVE MAJOR MEDICAL
5 POLICIES; GRACE PERIOD

6 (a) A comprehensive major medical insurance policy issued by a health
7 insurance company, nonprofit hospital or medical service corporation, or
8 health maintenance organization that insures employees, members, or
9 subscribers for hospital and medical insurance on an expense-incurred, service,
10 or prepaid basis shall:

11 (1) provide notice to the policyholder or other responsible party of any
12 premium payment due on a policy at least 21 days before the due date; and

13 (2) provide a grace period of at least one month for the payment of each
14 premium falling due after the first premium, during which grace period the
15 policy shall continue in force and the issuer of the policy shall be liable for
16 valid claims for covered losses incurred prior to the end of the grace period.

17 (b) If the issuer of a policy described in subsection (a) of this section does
18 not receive payment by the due date, the issuer shall send a termination notice
19 to the policyholder at least 21 days prior to termination notifying the
20 policyholder that the issuer may terminate the policy if payment is not received
21 by the termination date.

1 (c) The termination date of a policy described in subsection (a) of this
2 section shall not be earlier than the day following the last day of the grace
3 period set forth in subdivision (a)(1) of this section.

4 Sec. 20. 8 V.S.A. § 4089h is amended to read:

5 § 4089h. CANCELLATION OR NONRENEWAL OF HEALTH

6 INSURANCE COVERAGE

7 (a) ~~A~~ Except as otherwise provided for comprehensive major medical
8 insurance coverage in section 4077 of this chapter, a health insurer shall notify
9 a policyholder of any premium payment due on a policy at least 21 days before
10 the due date. If an insurer does not receive payment by the due date, an insurer
11 shall send a termination notice to the policyholder notifying the policyholder
12 that the insurer will terminate the policy effective on the due date if payment is
13 not received within 14 days from the date of mailing of the termination notice.
14 If an insurer does not receive payment within 14 days from the date of mailing
15 of the termination notice an insurer may cancel coverage effective on the due
16 date.

17 (b) As used in this section, “health insurer” means a health insurance
18 company, a hospital or medical service corporation, or a health maintenance
19 organization ~~which~~ that issues or renews any individual policy, service
20 contract, or benefit plan in this State.

- 1 Sec. 21. EFFECTIVE DATE
- 2 This act shall take effect on passage.