

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was
3 referred Senate Bill No. 88 entitled “An act relating to insurance, banking, and
4 securities” respectfully reports that it has considered the same and recommends
5 that the House propose to the Senate that the bill be amended by striking out all
6 after the enacting clause and inserting in lieu thereof the following:

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

8 § 2760b. PROHIBITED ACTIVITIES

9 * * *

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

15 * * *

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

17 § 2102. APPLICATION FOR LICENSE

18 * * *

19 (b) At the time of making an application, the applicant shall pay to the
20 Commissioner a fee for investigating the application and a license or

1 registration fee for a period terminating on the last day of the current calendar
2 year. The following fees are imposed on applicants:

3 * * *

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 [Repealed.]~~

9 * * *

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

11 § 2109. ANNUAL RENEWAL OF LICENSE

12 (a) On or before December 1 of each year, every licensee shall renew its
13 license or registration for the next succeeding calendar year and shall pay to
14 the Commissioner the applicable renewal of license or registration fee. At a
15 minimum, the licensee or registree shall continue to meet the applicable
16 standards for licensure or registration. At the same time, the licensee or
17 registree shall maintain with the Commissioner any required bond in the
18 amount and of the character as required by the applicable chapter. The annual
19 license or registration renewal fee shall be:

20 * * *

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

5 * * *

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

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

12 Sec. 5. 8 V.S.A. § 2405(a) is amended to read:

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

1 ~~Commissioner determines that the report is substantially similar to a report~~
2 ~~required under this section.~~

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

4 § 2105. CONTENTS OF LICENSE; NONTRANSFERABLE

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

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

11 * * *

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

13 § 2122. USE OF OTHER NAMES OR BUSINESS PLACES

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

17 (b) Mortgage loan originators and employees of licensees may work
18 remotely through a licensed location without being physically present at such
19 location, provided the mortgage loan originator or employee is assigned to a
20 licensed location, is adequately supervised by the licensee, and the licensee and

1 the mortgage loan originator or employee meet such additional conditions as
2 the Commissioner may require.

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

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

6 § 2201. LICENSES REQUIRED

7 * * *

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

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

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

16 (3) An employee engaged in loan modifications employed at or assigned
17 to a licensed location of, and supervised and sponsored by, only one third-party
18 loan servicer licensed to operate in this State pursuant to chapter 85 of this
19 title. As used in this subsection, “loan modification” means an adjustment or
20 compromise of an existing residential mortgage loan. The term “loan
21 modification” does not include a refinancing transaction.

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

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

* * *

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

[Repealed.]

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

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

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

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

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

2 § 8301. DEFINITIONS

3 As used in this chapter:

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

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

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

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

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

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

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

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

9 (8)(9) “NAIC” means the National Association of Insurance
10 Commissioners.

11 (9)(10) “Negative trend” means, with respect to a life or health insurer
12 or fraternal benefit society, negative trend over a period of time as determined
13 in accordance with the trend test calculation included in the life or fraternal
14 risk based capital instructions.

15 (10)(11) “Property and casualty insurer” means any insurance company
16 who that insures property or casualty as defined in subdivisions 3301(a)(3) and
17 (7) of this title, but shall not include monoline mortgage guaranty insurers,
18 financial guaranty insurers, and or title insurers.

19 (11)(12) “Risk based capital instructions” means the risk based capital
20 report form and the related instructions adopted by the NAIC and approved by
21 the Commissioner.

1 ~~(12)~~(13) “Risk based capital level” means one of the following four
2 levels: company action level risk based capital, regulatory action level risk
3 based capital, authorized control level risk based capital, or mandatory control
4 level risk based capital.

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

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

11 (C) “Authorized control level risk based capital” means the number
12 determined under the risk based capital formula in accordance with the risk
13 based capital instructions.

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

17 ~~(13)~~(14) “Risk based capital plan” means a comprehensive financial
18 plan containing the elements specified in subsection 8303(b) of this title. If the
19 Commissioner rejects the risk based capital plan and it is revised by the
20 insurer, with or without the Commissioner’s recommendation, the plan shall be
21 called the “revised risk based capital plan.”

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

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

9 § 8303. COMPANY ACTION LEVEL EVENT

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

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

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

16 (B) ~~if~~ in the case of a life or health insurer or a fraternal benefit
17 society, the insurer or society has total adjusted capital ~~which~~ that is greater
18 than or equal to its company action level risk based capital but less than the
19 product of its authorized control level risk based capital and 3.0 and has a
20 negative trend; ~~or~~

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

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

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

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

20 (b) An insurer shall prepare and submit to the Commissioner a risk based
21 capital plan within 45 days of filing a risk based capital report or within

1 45 days of a final adjusted risk based capital report showing a company action
2 level event. The risk based capital plan shall be a comprehensive financial
3 plan and shall:

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

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

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

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

18 (5) ~~identify~~ Identify the quality of, and problems associated with, the
19 insurer's business, including its assets, anticipated business growth and
20 associated surplus strain, extraordinary exposure to risk, mix of business, and
21 use of reinsurance.

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

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

17 (e) Each domestic insurer required to file a risk based capital plan or
18 revised risk based capital plan under this section shall file a copy of the plan
19 with the insurance commissioner in any state in which the insurer is authorized
20 to do business if:

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

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

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

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

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

11 § 8307. HEARINGS

12 Upon receipt of any notice required under ~~subsections~~ subsection 8302(e),
13 8303(c) ~~and~~ or (d), ~~and subdivisions~~ subdivision 8304(a)(4) ~~and~~ or (5), ~~and~~ or
14 subsection 8304(c) of this title, any insurer aggrieved by any action taken
15 under those sections may appeal to the Commissioner within five days of
16 receipt of notice of the action. The hearing shall be subject to 3 V.S.A. chapter
17 25. Upon receipt of the insurer's request for a hearing, the Commissioner shall
18 set a date for the hearing, which date shall be ~~no~~ not less than 10 nor more than
19 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. 8 V.S.A. § 6002 is amended to read:

2 § 6002. LICENSING; AUTHORITY

3 * * *

4 (b) No captive insurance company shall do any insurance business in this
5 State unless:

6 (1) it first obtains from the Commissioner a license authorizing it to do
7 insurance business in this State;

8 (2) its board of directors or committee of managers or, in the case of a
9 reciprocal insurer, its subscribers' advisory committee holds at least one
10 meeting each year in this State;

11 (3) it maintains its principal place of business in this State; and

12 (4) it appoints a registered agent to accept service of process and to
13 otherwise act on its behalf in this State; provided that whenever such registered
14 agent cannot with reasonable diligence be found at the registered office of the
15 captive insurance company, the ~~Secretary of State~~ Commissioner shall be an
16 agent of such captive insurance company upon whom any process, notice, or
17 demand may be served.

18 (c)(1) Before receiving a license, a captive insurance company shall:

19 (A) File with the Commissioner a ~~certified~~ copy of its organizational
20 documents, ~~a statement under oath of its president and secretary showing its~~

1 ~~financial condition~~, and any other statements or documents required by the
2 Commissioner.

3 (B) Submit to the Commissioner for approval a description of the
4 coverages, deductibles, coverage limits, and rates, together with such
5 additional information as the Commissioner may reasonably require. In the
6 event of any subsequent material change in any item in such description, the
7 captive insurance company shall submit to the Commissioner for approval an
8 appropriate revision and shall not offer any additional kinds of insurance until
9 a revision of such description is approved by the Commissioner. The captive
10 insurance company shall inform the Commissioner of any material change in
11 rates within 30 days of the adoption of such change.

12 (2) Each applicant captive insurance company shall also file with the
13 Commissioner evidence of the following:

14 (A) the amount and liquidity of its assets relative to the risks to be
15 assumed;

16 (B) the adequacy of the expertise, experience, and character of the
17 person or persons who will manage it;

18 (C) the overall soundness of its plan of operation;

19 (D) the adequacy of the loss prevention programs of its insureds; and

1 (E) such other factors deemed relevant by the Commissioner in
2 ascertaining whether the proposed captive insurance company will be able to
3 meet its policy obligations.

4 (3) Information submitted pursuant to this subsection shall be and
5 remain confidential, and may not be made public by the Commissioner or an
6 employee or agent of the Commissioner without the written consent of the
7 company, except that:

8 (A) such information may be discoverable by a party in a civil action
9 or contested case to which the captive insurance company that submitted such
10 information is a party, upon a showing by the party seeking to discover such
11 information that:

12 (i) the information sought is relevant to and necessary for the
13 furtherance of such action or case;

14 (ii) the information sought is unavailable from other
15 nonconfidential sources; and

16 (iii) a subpoena issued by a judicial or administrative officer of
17 competent jurisdiction has been submitted to the Commissioner; provided,
18 however, that the provisions of this subdivision (3) shall not apply to any risk
19 retention group; and

1 (B) the Commissioner may, in the Commissioner’s discretion,
2 disclose such information to a public officer having jurisdiction over the
3 regulation of insurance in another state, provided that:

4 (i) such public official shall agree in writing to maintain the
5 confidentiality of such information; and

6 (ii) the laws of the state in which such public official serves
7 require such information to be and to remain confidential.

8 * * *

9 (e) If the Commissioner is satisfied that the documents and statements that
10 such captive insurance company has filed comply with the provisions of this
11 chapter, and that such captive insurance company has been duly organized, the
12 Commissioner may grant a license authorizing it to do insurance business in
13 this State until April 1 thereafter, which license may be renewed.

14 Sec. 22. 8 V.S.A. § 6004 is amended to read:

15 § 6004. MINIMUM CAPITAL AND SURPLUS; LETTER OF CREDIT

16 (a) ~~No captive insurance company shall be issued a license unless it~~ Prior
17 to issuing any policies of insurance or entering into any contracts of
18 reinsurance, each captive insurance company shall possess and thereafter
19 maintain unimpaired paid-in capital and surplus of:

20 (1) in the case of a pure captive insurance company, not less than
21 \$250,000.00;

1 (2) in the case of an association captive insurance company, not less
2 than \$500,000.00;

3 (3) in the case of an industrial insured captive insurance company, not
4 less than \$500,000.00;

5 (4) in the case of an agency captive insurance company, not less than
6 \$500,000.00;

7 (5) in the case of a risk retention group, not less than \$1,000,000.00; and

8 (6) in the case of a sponsored captive insurance company, not less than
9 \$100,000.00.

10 (b) The Commissioner may prescribe additional capital and surplus based
11 upon the type, volume, and nature of insurance business transacted.

12 (c) Capital and surplus may be in the form of cash, marketable securities, a
13 trust approved by the Commissioner and of which the Commissioner is the
14 sole beneficiary, or an irrevocable letter of credit issued by a bank approved by
15 the Commissioner. The Commissioner may reduce or waive the capital and
16 surplus amounts required by this section pursuant to a plan of dissolution for
17 the company approved by the Commissioner.

18 (d) Within 30 days after commencing business, each captive insurance
19 company shall file with the Commissioner a statement under oath of its
20 president and secretary certifying that the captive insurance company

1 possessed the requisite unimpaired paid-in capital and surplus prior to
2 commencing business.

3 Sec. 23. 8 V.S.A. § 6007 is amended to read:

4 § 6007. REPORTS AND STATEMENTS

5 (a) Captive insurance companies shall not be required to make any annual
6 report except as provided in this chapter.

7 (b) Prior to March 1 of each year, and prior to March 15 of each year in the
8 case of pure captive insurance companies, association captive insurance
9 companies, sponsored captive insurance companies, ~~or~~ industrial insured
10 captive insurance companies, or agency captive insurance companies, each
11 captive insurance company shall submit to the Commissioner a report of its
12 financial condition, verified by oath of two of its executive officers. Each
13 captive insurance company shall report using generally accepted accounting
14 principles, statutory accounting principles, or international financial reporting
15 standards unless the Commissioner requires, approves, or accepts the use of
16 any other comprehensive basis of accounting, in each case with any
17 appropriate or necessary modifications or adaptations thereof required or
18 approved or accepted by the Commissioner for the type of insurance and kinds
19 of insurers to be reported upon, and as supplemented by additional information
20 required by the Commissioner. As used in this section, statutory accounting
21 principles shall mean the accounting principles codified in the NAIC

1 Accounting Practices and Procedures Manual. Upon application for
2 admission, a captive insurance company shall select, with explanation, an
3 accounting method for reporting. Any change in a captive insurance
4 company's accounting method shall require prior approval. Except as
5 otherwise provided, each risk retention group shall file its report in the form
6 required by subsection 3561(a) of this title, and each risk retention group shall
7 comply with the requirements set forth in section 3569 of this title. The
8 Commissioner shall by rule propose the forms in which pure captive insurance
9 companies, association captive insurance companies, sponsored captive
10 insurance companies, and industrial insured captive insurance companies shall
11 report. Subdivision 6002(c)(3) of this title shall apply to each report filed
12 pursuant to this section, except that such subdivision shall not apply to reports
13 filed by risk retention groups.

14 (c) Any pure captive insurance company, association captive insurance
15 company, sponsored captive insurance company, ~~or~~ industrial insured captive
16 insurance company, or agency captive insurance company may make written
17 application for filing the required report on a fiscal year-end. If an alternative
18 reporting date is granted:

- 19 (1) the annual report is due 75 days after the fiscal year-end; and
20 (2) in order to provide sufficient detail to support the premium tax
21 return, the pure captive insurance company, association captive insurance

1 company, sponsored captive insurance company, or industrial insured captive
2 insurance company shall file prior to March 15 of each year for each calendar
3 year-end, pages 1, 2, 3, and 5 of the “Vermont Captive Insurance Company
4 Annual Report - Short Form” verified by oath of two of its executive officers.

5 Sec. 24. 8 V.S.A. § 6034c is amended to read:

6 § 6034c. ~~PROTECTED CELL CONVERSION INTO AN INCORPORATED~~
7 ~~PROTECTED CELL~~

8 (a)(1) Subject to the prior written approval of the Commissioner, on
9 application of the sponsor and with the prior consent of each participant of the
10 affected protected ~~cell~~ cells or as otherwise permitted pursuant to a
11 participation agreement and the consent of each affected incorporated
12 protected cell, a sponsored captive insurance company or a sponsored captive
13 insurance company licensed as a special purpose financial insurance company
14 may convert ~~a protected cell into an incorporated protected cell pursuant to the~~
15 ~~provisions of section 6034a of this title, without affecting the protected cell’s~~
16 ~~assets, rights, benefits, obligations, and liabilities~~ one or more protected cells
17 or incorporated protected cells into a:

18 (A) single protected cell or incorporated protected cell;

19 (B) new sponsored captive insurance company;

20 (C) new sponsored captive insurance company licensed as a special
21 purpose financial insurance company;

1 (D) new special purpose financial insurance company;

2 (E) new pure captive insurance company;

3 (F) new risk retention group;

4 (G) new agency captive insurance company;

5 (H) new industrial insured captive insurance company; or

6 (I) new association captive insurance company.

7 (2) Any such conversion shall be subject to section 6031 and
8 subchapters 1 and 4 of this chapter, as applicable, as well as to a plan or plans
9 of operation approved by the Commissioner, without affecting any protected
10 cell's or incorporated protected cell's assets, rights, benefits, obligations, and
11 liabilities.

12 (b) Any such conversion shall be deemed for all purposes to be a
13 continuation of ~~the~~ each such protected cell's or incorporated protected cell's
14 existence together with all of its assets, rights, benefits, obligations, and
15 liabilities, as ~~an~~ a new protected cell or incorporated protected cell ~~of the,~~ a
16 licensed sponsored captive insurance company ~~or,~~ a sponsored captive
17 insurance company licensed as a special purpose financial insurance company,
18 a pure captive insurance company, a risk retention group, an industrial insured
19 captive insurance company, or an association captive insurance company, as
20 applicable. Any such conversion shall be deemed to occur without any transfer
21 or assignment of any such assets, rights, benefits, obligations, or liabilities and

1 without the creation of any reversionary interest in, or impairment of, any such
2 assets, rights, benefits, obligations, and liabilities.

3 (c) Any such conversion shall not be construed to limit any rights or
4 protections applicable to any converted protected cell or incorporated protected
5 cell and such sponsored captive insurance company or sponsored captive
6 insurance company licensed as a special purpose financial insurance company
7 under this subchapter or under subchapter 4 of this chapter, as applicable, that
8 existed immediately prior to the date of any such conversion.

9 (d)(1) Any protected cell converting into an incorporated protected cell
10 pursuant to this section, or converting into a new captive insurance company or
11 risk retention group pursuant to this section, shall perform such conversion in
12 accordance with:

13 (A) the provisions of 11A V.S.A. chapter 11 if the converted entity is
14 to be a corporation;

15 (B) the provisions of 11 V.S.A. chapter 25, subchapter 10 if the
16 converted entity is to be a limited liability company; or

17 (C) the provisions applicable to any other type of entity permissible
18 under Vermont law if the converted entity is to be such an entity.

19 (2) As used in this subdivision, a protected cell that is not an
20 incorporated protected cell shall be considered an “organization” as that term is
21 defined in 11A V.S.A. § 11.01 and 11 V.S.A. § 4141; an “other insurer” as that

1 term is defined in 8 V.S.A. § 6020; and an “entity” as that term is defined in
2 11C V.S.A. § 102.

3 Sec. 25. REPEAL

4 8 V.S.A. § 6034e is repealed.

5 Sec. 26. 8 V.S.A. § 6006(j) is amended to read:

6 (j) The provisions of chapter 101, subchapters 3 and 3A of this title,
7 pertaining to mergers, consolidations, conversions, mutualizations,
8 redomestications, and mutual holding companies, shall apply in determining
9 the procedures to be followed by captive insurance companies in carrying out
10 any of the transactions described therein, except that:

11 (1) If the shareholders, members, or policyholders of the captive
12 insurance company have unanimously approved of the merger, the procedures
13 set forth in section 6006a of this title shall apply.

14 (2) The Commissioner may, upon request of an insurer party to a merger
15 authorized under this subsection, waive the requirement of subdivision 3424(6)
16 of this title.

17 ~~(2)~~(3) The Commissioner may waive the requirements for public notice
18 and hearing or, in accordance with rules ~~which~~ that the Commissioner may
19 adopt addressing categories of transactions, modify the requirements for public
20 notice and hearing. If a notice of public hearing is required, but no one

1 requests a hearing ten days before the day set for the hearing, then the
2 Commissioner may cancel the hearing.

3 ~~(3)~~(4) The provisions of subsections 3423(f) and (h) of this title shall not
4 apply, and the Commissioner may waive or modify the requirement of
5 subdivision 3423(b)(4) of this title, with respect to market value of a converted
6 company as necessary or desirable to reflect applicable restrictions on
7 ownership of companies formed under this chapter.

8 ~~(4)~~(5) An alien insurer may be a party to a merger authorized under this
9 subsection; provided that the requirements for a merger between a captive
10 insurance company and a foreign insurer under section 3431 of this title shall
11 apply to a merger between a captive insurance company and an alien insurer
12 under this subsection. Such alien insurer shall be treated as a foreign insurer
13 under section 3431 and such other jurisdictions shall be the equivalent of a
14 state for purposes of section 3431.

15 ~~(5)~~(6) The Commissioner may issue a certificate of general good to
16 permit the formation of a captive insurance company that is established for the
17 purpose of consolidating or merging with or assuming existing insurance or
18 reinsurance business from an existing licensed captive insurance company.
19 The Commissioner may, upon request of such newly formed captive insurance
20 company, waive or modify the requirements of subdivisions 6002(c)(1)(B) and
21 (2) of this title.

1 ~~(6)~~(7) The Commissioner may waive or modify application of the
2 provisions of chapter 132 and chapter 101, subchapters 3 and 3A of this title
3 and the provisions of Titles 11, 11A, and 11B in order to permit mergers of a
4 non-insurer subsidiary of a captive insurance company with and into the
5 captive insurance company or another of its subsidiaries without approval of
6 the shareholders, members, or subscribers of such captive insurance company
7 and without making available to the shareholders, members, or subscribers
8 dissenters' rights otherwise made available in such a merger; provided,
9 however, that the board of directors, managers, or subscribers' advisory
10 committee of each of the merging entities shall approve such merger. The
11 Commissioner may condition any such waiver or modification upon a good
12 faith effort by the captive insurance company to provide notice of the merger
13 to its shareholders, members, or subscribers.

14 Sec. 27. 8 V.S.A. § 6006a is added to read:

15 § 6006a. MERGERS

16 (a) Any captive insurance company meeting the qualifications set forth in
17 subdivision 6006(j)(1) of this title may merge with any other insurer, whether
18 licensed in this State or elsewhere, in the following manner:

19 (1) The board of directors of each insurer shall, by a resolution adopted
20 by a majority vote of the members of such board, approve a joint agreement of
21 merger setting forth:

1 (A) the names of the insurers proposed to merge, and the name of the
2 insurer into which they propose to merge, which is hereafter designated as the
3 surviving company;

4 (B) the terms and conditions of the proposed merger and the mode of
5 carrying the same into effect;

6 (C) the manner and basis of converting the ownership interests, if
7 applicable, in other than the surviving insurer into ownership interests or other
8 consideration, securities, or obligations of the surviving insurer;

9 (D) a restatement of such provisions of the articles of incorporation
10 of the surviving insurer as may be deemed necessary or advisable to give effect
11 to the proposed merger; and

12 (E) any other provisions with respect to the proposed merger as are
13 deemed necessary or desirable.

14 (2) The resolution of the board of directors of each insurer approving the
15 agreement shall direct that the agreement be submitted to a vote of the
16 shareholders, members, or policyholders, as the case may be, of each insurer
17 entitled to vote in respect thereof at a designated meeting thereof, or via
18 unanimous written consent of such shareholders, members, or policyholders in
19 lieu of a meeting. Notice of the meeting shall be given as provided in the
20 bylaws, charter, or articles of association, or other governance document, as

1 the case may be, of each insurer and shall specifically reflect the agreement as
2 a matter to be considered at the meeting.

3 (3) The agreement of merger so approved shall be submitted to a vote of
4 the shareholders, members, or policyholders, as the case may be, of each
5 insurer entitled to vote in respect thereof at the meeting directed by the
6 resolution of the board of directors of such company approving the agreement,
7 and the agreement shall be unanimously adopted by the shareholders,
8 members, or policyholders, as the case may be.

9 (4) Following the adoption of the agreement by any insurer, articles of
10 merger shall be adopted in the following manner:

11 (A) Upon the execution of the agreement of merger by all of the
12 insurers parties thereto, there shall be executed and filed, in the manner
13 hereafter provided, articles of merger setting forth the agreement of merger, the
14 signatures of the several insurers parties thereto, the manner of its adoption,
15 and the vote by which adopted by each insurer.

16 (B) The articles of merger shall be signed on behalf of each insurer
17 by a duly authorized officer, in such multiple copies as shall be required to
18 enable the insurers to comply with the provisions of this subchapter with
19 respect to filing and recording the articles of merger, and shall then be
20 presented to the Commissioner.

1 (C) The Commissioner shall approve the articles of merger if he or
2 she finds that the merger will promote the general good of the State in
3 conformity with those standards set forth in section 3305 of this title. If he or
4 she approves the articles of merger, he or she shall issue a certificate of
5 approval of merger.

6 (5) The insurer shall file the articles of merger, accompanied by the
7 agreement of merger and the certificate of approval of merger, with the
8 Secretary of State and pay all fees as required by law. If the Secretary of State
9 finds that they conform to law, he or she shall issue a certificate of merger and
10 return it to the surviving insurer or its representatives. The merger shall take
11 effect upon the filing of articles of merger with the Secretary of State, unless a
12 later effective date is specified therein.

13 (6) The surviving insurer shall file a copy of the certificate of merger
14 from the Secretary of State with the Commissioner.

15 (b) When such merger or consolidation has been effected as provided in
16 this section:

17 (1) The several insurers parties to the agreement of merger shall be a
18 single captive insurance company that shall be the surviving insurer a party to
19 the agreement of merger into which it has been agreed the other insurers
20 parties to the agreement shall be merged, which surviving insurer shall survive
21 the merger.

1 (2) The separate existence of all of the insurers parties to the agreement
2 of merger, except the surviving captive insurance company, shall cease.

3 (3) The single captive insurance company shall have all of the rights,
4 privileges, immunities, and powers and shall be subject to all of the duties and
5 liabilities of a captive insurance company organized under this chapter.

6 (4) The single captive insurance company shall possess all the rights,
7 privileges, immunities, powers, and franchises of a public as well as of a
8 private nature of each of the insurers so merged; and all property, real,
9 personal, and mixed, and all debts due on whatever account, including
10 subscriptions to shares of capital stock, and all other choses in action and all
11 and every other interest, of or belonging to or due to each of the insurers so
12 merged shall be taken and deemed to be transferred to and vested in such
13 single captive insurance company without further act or deed; and the title to
14 any real estate, or any interest therein, under the laws of this State vested in
15 any such insurers shall not revert or be in any way impaired by reason of the
16 merger.

17 (5) The single captive insurance company shall be responsible and liable
18 for all the liabilities and obligations of each of the insurers so merged in the
19 same manner and to the same extent as if the single insurer had itself incurred
20 the same or contracted therefor; and any claim existing or action or proceeding
21 pending by or against any of the insurers may be prosecuted to judgment as if

1 the merger had not taken place. Neither the rights of creditors nor any liens
2 upon the property of any insurers shall be impaired by the merger, but such
3 liens shall be limited to the property upon which they were liens immediately
4 prior to the time of the merger unless otherwise provided in the agreement of
5 merger.

6 (6) The articles of association or other governing document of the
7 surviving captive insurance company shall be supplanted and superseded to the
8 extent, if any, that any provision or provisions of the articles are restated in the
9 agreement of merger as provided in subsection (a) of this section, and such
10 articles of association or other governing document shall be deemed to be
11 thereby and to that extent amended.

12 (c)(1) In the case of a merger between a domestic and a foreign or alien
13 insurer, the articles of merger shall be regarded as executed by the proper
14 officers of said foreign or alien insurer when such officers are duly authorized
15 to execute same through such action on the part of the directors, shareholders,
16 members, or policyholders, as the case may be, of said foreign or alien insurer
17 as may be required by the laws of the state where the same is incorporated, and
18 upon execution, the articles of merger shall be submitted to the Insurance
19 Commissioner or other officer at the head of the insurance department of the
20 jurisdiction where such foreign or alien insurer is domiciled. No merger shall
21 take effect until it has been approved by the insurance official of the

1 jurisdiction where the foreign or alien insurer is domiciled nor until a
2 certificate of his or her approval has been filed with the Commissioner,
3 provided that such submission to and approval by the proper official of the
4 other jurisdiction shall not be required unless the same are required by the laws
5 of the foreign or alien jurisdiction. Provided, further, that the domestic captive
6 insurance company involved in the merger shall not through anything
7 contained in this section be relieved of any of the procedural requirements
8 enumerated elsewhere in this section.

9 (2) A merger between a domestic and a foreign or alien captive
10 insurance company shall not take effect unless and until the surviving captive
11 insurance company, if such is a foreign or alien insurer, files with the
12 Commissioner a power of attorney appointing the Commissioner the attorney
13 for service of the foreign or alien insurer, upon whom all lawful process
14 against the insurers may be served. Said power of attorney shall be irrevocable
15 if the foreign or alien insurer has outstanding in this State any contract of
16 insurance, or other obligation whatsoever, and shall by its terms so provide.
17 Service upon the Commissioner shall be deemed sufficient service upon the
18 insurer.

1 Sec. 28. 8 V.S.A. § 6006b is added to read:

2 § 6006b. REDOMESTICATION

3 (a) Any foreign or alien insurer that qualifies for licensure as a captive
4 insurance company in this State may redomesticate to this State by complying
5 with all of the requirements of law relative to the organization and licensing of
6 a captive insurance company and by filing with the Secretary of State its
7 articles of association, charter, or other organization document, together with
8 appropriate amendments thereto adopted in accordance with the laws of this
9 State bringing such articles of association, charter, or other organizational
10 document into compliance with the laws of this State, along with a certificate
11 of general good issued by the Commissioner and a filing fee per section 3440
12 of this title. An insurer becoming a domestic captive insurance company
13 through this redomestication process shall pay to the Commissioner such fees
14 as would otherwise be payable by a captive insurance company organizing and
15 becoming licensed or transacting business in this State. The Commissioner
16 may issue a conditional license prior to the effective date of the
17 redomestication in order to facilitate the transaction and provide notice of
18 approval of the transaction to the outgoing jurisdiction. The domestic insurer
19 shall be entitled to the necessary or appropriate certificates and licenses to
20 continue its business and to transact business in this State and shall be subject
21 to the authority and jurisdiction of this State. No insurer redomesticating into

1 this State as a captive insurance company need merge, consolidate, transfer
2 assets, or otherwise engage in any other reorganization, other than as specified
3 in this section.

4 (b) Upon the approval of and compliance with such conditions as may be
5 imposed by the Commissioner, any captive insurance company may transfer its
6 domicile, in accordance with the laws thereof, to any other state or jurisdiction
7 and upon such a transfer shall cease to be a domestic captive insurance
8 company, and its corporate or other legal existence in this State shall cease
9 upon the filing of articles of redomestication with the Secretary of State, or
10 upon such later date if a delayed effective date is specified in the articles of
11 redomestication, accompanied by a certificate of approval of redomestication
12 issued by the Commissioner and proof of acceptance of the insurer by the
13 Secretary of State or analogous officer of the jurisdiction to which the captive
14 insurance company is redomesticating, and upon payment to the Secretary of
15 State of a filing fee per section 3438 of this title. Said articles of
16 redomestication shall contain, at a minimum, the following information:

17 (1) the name, organizational form, date of formation, and jurisdiction of
18 formation of the redomesticating entity;

19 (2) the jurisdiction to which the redomesticating entity will be
20 transferring its domicile and its name following the redomestication date;

1 (3) the registered office and agent of the redomesticating entity
2 following the redomestication date; and

3 (4) a statement that the redomestication has been approved by the
4 appropriate vote of the shareholders or other owners of the redomesticating
5 entity.

6 (c) Upon redomestication in accordance with this section, the foreign or
7 alien insurer shall become a captive insurance company organized under the
8 laws of this State and have all the rights, privileges, immunities, and powers,
9 and be subject to all applicable laws, duties, and liabilities, of domestic
10 insurers of the same type. Such captive insurance company shall possess all
11 rights that obtained prior to the redomestication to the extent permitted by the
12 laws of this State and shall be responsible and liable for all the liabilities and
13 obligations that obtained prior to the redomestication. The certificate of
14 authority, agents, appointments and licenses, rates, and other items that the
15 Commissioner allows, in his or her discretion, that are in existence at the time
16 any insurer transfers its corporate domicile to this or any other state or
17 jurisdiction by redomestication pursuant to this section shall continue in full
18 force and effect upon such transfer. All outstanding policies of any
19 transferring insurer shall remain in full force and effect.

1 Sec. 29. 8 V.S.A. § 6053(1) is amended to read:

2 (1) Notice of operations and designation of ~~Secretary of State~~
3 Commissioner as agent. Before offering insurance in this State, a risk
4 retention group shall submit to the Commissioner:

5 (A) a statement identifying the state or states in which the risk
6 retention group is chartered and licensed as a liability insurance company,
7 charter date, its principal place of business, and such other information,
8 including information on its membership, as the Commissioner of this State
9 may require to verify that the risk retention group is qualified under
10 subdivision 6051(11) of this title;

11 (B) a copy of its plan of operations and feasibility study and revisions
12 of such plan or study submitted to the state in which the risk retention group is
13 chartered and licensed; provided, however, that the provision relating to the
14 submission of a plan of operation or feasibility study shall not apply with
15 respect to any line or classification of liability insurance which:

16 (i) was defined in the Product Liability Risk Retention Act of
17 1981 before October 27, 1986; and

18 (ii) was offered before such date by any risk retention group which
19 had been chartered and operating for not less than three years before such date;
20 and

1 (iii) the risk retention group shall submit a copy of any revision to
2 its plan of operation or feasibility study required by subsection 6052(b) of this
3 title at the time that such revision has become effective in its chartering state;
4 and

5 (C) a statement of registration, for which a filing fee shall be
6 determined by the Commissioner, which designates the ~~Secretary of State~~
7 Commissioner as its agent for the purpose of receiving service of legal
8 documents or process.

9 * * *

10 Sec. 30. 8 V.S.A. § 6056(b) is amended to read:

11 (b) The purchasing group shall register with and designate the ~~Secretary of~~
12 ~~State~~ Commissioner as its agent solely for the purpose of receiving service of
13 legal documents or process, except for any groups exempted under 15 U.S.C.
14 § 3903(e). Service shall be effected in the manner provided in section 3383 of
15 this title.

16 Sec. 31. 8 V.S.A. chapter 110 is added to read:

17 CHAPTER 110. DENTAL INSURANCE

18 § 4121. DEFINITIONS

19 As used in this chapter:

20 (1) “Covered individual” means an individual covered under a dental
21 insurance plan or a health insurance plan.

1 (2) “Covered service” means a dental service for which reimbursement
2 is available under a covered individual’s dental insurance plan or health
3 insurance plan or for which reimbursement would be available but for the
4 application of contractual limitations such as deductibles, co-payments,
5 coinsurance, waiting periods, annual or lifetime maximums, frequency
6 limitations, alternative benefit payments, or other limitations.

7 (3) “Dental insurance plan” means a stand-alone dental plan or policy
8 that provides coverage for dental services separately from a health insurance
9 plan.

10 (4) “Dental insurer” means any health or dental insurance company,
11 including a nonprofit dental service corporation, that offers a dental insurance
12 plan for sale.

13 (5) “Dentist” means an individual licensed to practice dentistry under
14 26 V.S.A. chapter 12.

15 (6) “Health insurance plan” means any individual or group health
16 insurance policy, any hospital or medical service corporation or health
17 maintenance organization subscriber contract, or any other health benefit plan
18 offered, issued, or renewed for any person in this State by a health insurer.
19 The term does not include benefit plans providing coverage for a specific
20 disease or other limited benefit coverage.

21 (7) “Health insurer” has the same meaning as in 18 V.S.A. § 9402.

1 § 4122. FEES FOR COVERED DENTAL SERVICES

2 (a) No dental insurer, health insurer, or other similar entity that covers
3 dental services and is subject to regulation by the Department of Financial
4 Regulation, and no contract or participating provider agreement with a dentist,
5 shall require, directly or indirectly, that a dentist who is a participating
6 provider provide dental services to a covered individual at a fee set by, or
7 subject to the approval of, the insurer or other regulated entity unless the dental
8 services are covered services.

9 (b) No person providing third-party administrator services shall make
10 available to any customers a plan that sets dental fees for providers in its
11 provider network for any dental services other than covered services.

12 (c) Fees for covered services shall be set in good faith and shall not be
13 nominal.

14 (d) The Commissioner of Financial Regulation shall enforce the provisions
15 of this section pursuant to the Commissioner’s authority under this title.

16 Sec. 32. 18 V.S.A. § 9422 is added to read:

17 § 9422. CREDIT CARD PAYMENTS OPTIONAL FOR PROVIDERS

18 (a) As used in this section:

19 (1) “Credit card payment” means a type of electronic funds transfer in
20 which a health insurer or its contracted vendor issues a single-use series of
21 numbers associated with payment for health care services delivered by a health

1 care provider and chargeable for a predetermined dollar amount and in which
2 the health care provider is responsible for processing the payment using a
3 credit card terminal or Internet portal. The term includes virtual or online
4 credit card payments in which no physical credit card is presented to the health
5 care provider and the single-use credit card number expires upon payment
6 processing.

7 (2) “Health care provider” has the same meaning as in section 9402 of
8 this title.

9 (3) “Health insurer” means an insurance company that provides health
10 insurance as defined in 8 V.S.A. § 3301(a)(2), a nonprofit hospital or medical
11 service corporation, a managed care organization, a health maintenance
12 organization, and, to the extent permitted under federal law, any administrator
13 of an insured, self-insured, or publicly funded health care benefit plan offered
14 by a public or private entity, as well as any entity offering a policy for specific
15 disease, accident, injury, hospital indemnity, dental care, disability income,
16 long-term care, or other limited benefit coverage.

17 (b) A health insurer or its contracted vendor shall not require a health care
18 provider, including a dentist or ambulance service provider, to accept
19 reimbursement by credit card payment unless the health care provider has
20 affirmatively elected to receive payments in this manner. If a health care
21 provider, including a dentist or ambulance service provider, does not

1 affirmatively elect to receive reimbursement by credit card payment, the health
2 insurer or its contracted vendor shall make payments to the provider in another
3 manner.

4 Sec. 33. 8 V.S.A. § 3750(d)(1)(C)(iii) is amended to read:

5 (iii) Where the resulting interest rate is not less than ~~one~~ 0.15
6 percent.

7 Sec. 34. EFFECTIVE DATES; APPLICATION

8 This act shall take effect on passage, except that Sec. 31 shall take effect on
9 January 1, 2022 and shall apply to all contracts and participating provider
10 agreements between a dental insurer or third-party administrator and a dentist
11 that are entered into on or after that date and to all dental insurance plans
12 issued on and after January 1, 2022 on such date as a dental insurer offers,
13 issues, or renews the plan, but in no event later than January 1, 2023.

14

15

16

17 (Committee vote: _____)

18

19

Representative _____

20

FOR THE COMMITTEE