

TO: Senate Committee on Finance
FROM: Commissioner Kevin Gaffney
Deputy Commissioner Emily Brown
Emily Kisicki, Director of Policy
RE: Department of Financial Regulation's 2023 Housekeeping Bill
DATE: February 2, 2023

SUMMARY: This document explains each change that DFR requests be included in a 2023 general housekeeping bill to update Vermont's insurance and banking laws.

SECTION ONE: TECHNICAL AMENDMENTS

1) *Correct a cross reference in Credit for Reinsurance Law*

Explanation: Act 139 of 2022 made various amendments to the Credit for Reinsurance Law consistent with model act language from the National Association of Insurance Commissioners (NAIC). One of those amendments deleted 8 V.S.A. 3634a(e). Previous section 3634a(f) was moved to 3634a(e), and there is no longer a subsection (f). As a result, language in section 6011(b) needs to be updated to correct a reference to 3634(f).

2) *Clean up language in Insurance Data Security Law*

Explanation: Section 20 of Act 139 adopted the Vermont Insurance Data Security Law, which closely aligns with model language from the National Association of Insurance Commissioners (NAIC). During the committee process, Vermont deviated from the NAIC definition of "licensee." Some words were inserted into one of the exclusions to the definition of "licensee" that have the result of making the exclusion much broader than intended or desired. As written, all licensees domiciled outside of Vermont could arguably be excluded from the requirements of the Act. This language would correct the inadvertent expansion of the exclusion.

3) *Correct error regarding denial of banking license*

Explanation: Current language in 8 VSA § 2103(b)(3)(A) states that the Commissioner shall "return to the applicant any amounts paid for the applicable bond requirement and license fee" in the event of a license denial. Any bond provided to the Department for a license is issued by an insurance/bonding company, and the Commissioner does not receive the premium. It would be inappropriate for the Commissioner to be responsible for returning any amount paid for the bond to the applicant when the premium and rules for return would rest with the bonding company. The suggested language is consistent with language that appears in 8 VSA § 2104(b)(3)(A) regarding reconsideration of denial.

4) *Update notification method for rescission of debt adjuster contracts*

Explanation: This section refers to written notice or telegram as acceptable methods for notice of rescission of debt adjuster contracts. Changes in this section would remove reference to telegram and add electronic mail to the list of acceptable delivery methods.

5) *Codify interpretation of interest rate limitation*

Explanation: A lender may generally not require a deposit as a precondition of a loan, except under defined circumstances. This change would codify an existing Banking Division interpretation that any allowable deposit cannot result in an effective interest rate that exceeds legal interest rates.

Section Two: Policy Initiatives

6) *Confidentiality for P&C filings*

Explanation: Currently DFR is unable to designate any supporting information for Property and Casualty rate and rule filings as confidential. This inhibits insurer's ability to submit complete information to support their rate and rule filings. The proposed change will enhance DFR's ability to examine complex proprietary models and evaluate their compliance with our rating standards. The proposed statutory change would allow insurers and advisory organizations to request confidentiality/trade secret status for supporting information for these submitted filings, which is a practice that is currently allowed in life and health insurance filings.

7) *Notice for long term care rate filings*

Explanation: This change would modify the timeline for when long term care insurers must notify policyholders of an upcoming rate increase. DFR plans to couple this change with repeal of DFR Bulletin 216, which requires insurers to notify policyholders of when they file a request for a rate increase with DFR. The notice of the request can cause a great deal of policyholder concern, but the actual rate increase ends up occurring an extended period after the request and usually in a lesser amount than the original request. The legislative change would increase the amount of advance notice that a policyholder receives of an actual rate increase from 45 to 90 days. We believe this will provide meaningful notice of upcoming rate increases and the repeal of the Bulletin will help avoid confusion about the requested rate increases.

8) *NAIC Guaranty Association Model Act*

Explanation: The proposal is to adopt an NAIC model law designed to protect long term care insurance (LTCI) policyholders from losses due to company insolvencies. In December 2017, the NAIC adopted changes to the NAIC Life and Health Guaranty Association Model Act to address concerns stemming from insolvencies of insurers writing LTCI. The Penn Treaty insolvency resulted in the health industry bearing the majority of the guaranty fund assessment obligations, since LTCI is categorized as health insurance while life insurers predominately wrote the majority of LTCI premium. The revisions broaden the assessment base for LTCI insolvencies to include both life and health insurers and splits the assessment 50%/50% between the life and health insurance industries. The amendments also provide for the inclusion of HMOs as members of the life and health insurance guaranty association and excludes non-profit hospital service

corporations. Several technical amendments would also be made. At least 34 other states have already adopted the model.

9) *Unmerged health insurance markets*

Explanation: Act 137 of 2022 directed DFR, in consultation with DVHA to present recommendations to address Vermont’s insurance market structure “in a manner that reduces premiums in the small group market without increasing costs in the individual market.” The [resulting report](#) contains suggested session law that would keep the markets unmerged through 2025 in order to take advantage of continued availability of federal subsidies.