

No. 142. An act relating to banking, insurance, and securities.

(H.648)

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

* * * Banking; Financial and Related Services * * *

Sec. 1. 8 V.S.A. § 2102 is amended to read:

§ 2102. APPLICATION FOR LICENSE

(a) Application for a license or registration shall be in writing, under oath or affirmation, and in the form prescribed by the Commissioner and shall contain the legal name, any fictitious name or trade name, and the address of the residence and place of business of the applicant; if the applicant is a ~~partnership~~ corporation, limited liability company, partnership, or other entity, the name and title of each key individual and person in control of the applicant; the county and municipality with street and number, if any, where the business is to be conducted; and such further information as the Commissioner may require.

(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:

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(9) For an application for a consumer litigation funding company ~~registration~~ license under chapter 74 of this title, \$200.00 as a ~~registration~~ license fee and \$300.00 as an application and investigation fee.

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Sec. 2. 8 V.S.A. § 2103 is amended to read:

§ 2103. APPROVAL OF APPLICATION AND ISSUANCE OF LICENSE

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

(1)(A) The financial condition and responsibility, financial and business experience, competence, character, and general fitness of the applicant command the confidence of the community; ~~and~~ warrant belief that the business will be operated honestly, fairly, and efficiently pursuant to the applicable chapter of this title; and otherwise indicate that it is in the public interest to permit the applicant to provide services in this State. If the applicant is a corporation, limited liability company, partnership, or ~~association~~ other entity, such findings are required with respect to each key individual and each person in control of the applicant.

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

- (i) current outstanding judgments, except judgments solely as a result of medical expenses;
- (ii) current outstanding tax liens or other government liens and filings;
- (iii) foreclosures within the past three years; or
- (iv) a pattern of seriously delinquent accounts within the past three years.

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

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

(4) The applicant, each key individual, and each person in control of the applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court:

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

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

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

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

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

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

(C) for an application for a money transmitter license, the net worth and security requirements of sections 2540 and 2541 of this title;

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

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

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

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Sec. 3. 8 V.S.A. § 2107 is amended to read:

§ 2107. CHANGE OF CONTROL

(a) Any person or group of persons acting in concert, seeking to acquire control of a licensee, shall submit a request to the Commissioner and shall obtain the approval of the Commissioner prior to acquiring control. If the person or group of persons is seeking to acquire control of a money transmitter licensee, the person or group of persons shall submit with the request a nonrefundable fee of \$500.00. An individual is not deemed to acquire control of a licensee and is not subject to this section when that individual becomes a key individual in the ordinary course of business.

(b) The request required by subsection (a) of this section shall include all information required for the person or group of persons seeking to acquire control and all new key individuals that have not previously submitted the application requirements contained in section 2102 ~~of this chapter~~ or 2202a of this title, as applicable to the specific license.

(c) The Commissioner shall approve a request for change of control under subsection (a) of this section if, after investigation, the Commissioner determines that the person or group of persons requesting approval has the financial condition and responsibility, competence, financial and business experience, character, and general fitness to control and operate the licensee in a lawful and proper manner, and that the interests of the public will not be jeopardized by the change of control.

(d) The Commissioner shall approve or deny a request for change of control not later than 60 days after a complete request is filed and notify the

licensee of the decision in a record. The Commissioner for good cause may extend the review period.

(e) The following persons are exempt from the prefiling requirements of subsection (a) of this section, but the licensee shall notify the Commissioner of the change of control, unless exempted by subsection (f) of this section, and request the Commissioner's approval using the standards in subsection (b) of this section for a change of control:

(1) a person that acts as a proxy for the sole purpose of voting at a designated meeting of the security holders or holders of voting interests of a licensee or person in control of a licensee;

(2) a person that acquires control of a licensee by devise or descent;

(3) a person that acquires control as a personal representative, custodian, guardian, conservator, or trustee, or as an officer appointed by a court of competent jurisdiction or by operation of law; and

(4) a person that the Commissioner, by rule or order, exempts in the public interest.

(f) Regarding the control of a money transmitter licensee, the following persons are exempt from the prefiling requirements of subsection (a) of this section and do not need the Commissioner's approval with respect to the following specific actions:

(1) a person that acts as a proxy for the sole purpose of voting at a designated meeting of the security holders or holders of voting interests of a

money transmitter licensee or person in control of a money transmitter

licensee;

(2) a person that acquires control of a money transmitter licensee by devise or descent;

(3) a person that acquires control of a money transmitter licensee as a personal representative, custodian, guardian, conservator, or trustee, or as an officer appointed by a court of competent jurisdiction or by operation of law;

(4) a person in control of the money transmitter licensee where there has been an internal reorganization of such person but the ultimate person in control of the money transmitter licensee remains the same; and

(5) a person that the Commissioner, by rule or order, exempts in the public interest.

(g) Subsection (a) of this section does not apply to public offerings of securities.

~~(g)~~(h) Before filing a request for approval to acquire control, a person may request in a record a determination from the Commissioner as to whether the person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the Commissioner determines that the person would not be a person in control of a licensee, the Commissioner shall enter an order to that effect, and the proposed person and transaction is not subject to the requirements of subsections ~~(a) through (e)~~ (a)–(c) of this section.

~~(h)~~(i) If an applicant avails itself or is otherwise subject to a multistate licensing process:

(1) the Commissioner is authorized to accept the investigation results of a lead investigative state for the purposes of reaching the findings in ~~subsections~~ subsection (c) of this section if the lead investigative state has sufficient staffing, expertise, and minimum standards; or

(2) if Vermont is a lead investigative state, the Commissioner is authorized to investigate the applicant pursuant to subsection (c) of this section.

Sec. 4. 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 amount and of the character as required by the applicable chapter. The annual license or registration renewal fee shall be:

* * *

(9) For a consumer litigation funding company ~~registration~~ license under chapter 74 of this title, \$200.00.

* * *

(e) Notwithstanding any other provision of this title to the contrary, the license of a mortgage loan originator ~~who~~ that fails to pay the annual renewal fee or fails to satisfy all of the minimum license renewal standards by December 1 shall automatically expire on December 31.

(f) Notwithstanding any other provision of this title to the contrary, the ~~registration~~ license of a consumer litigation funding company that fails to pay the annual renewal fee or fails to satisfy all of the minimum ~~registration~~ license renewal requirements by December 1 shall automatically expire on December 31.

(g) Notwithstanding any other provisions of this title to the contrary, the license of a money transmitter ~~who~~ that fails to pay the annual renewal fee on or before December 1 shall automatically expire on December 31.

Sec. 5. 8 V.S.A. § 2110 is amended to read:

§ 2110. REVOCATION, SUSPENSION, TERMINATION, OR

NONRENEWAL OF LICENSE; CEASE AND DESIST ORDERS

(a) The Commissioner may deny, suspend, terminate, revoke, condition, or refuse to renew a license or order that any person or licensee cease and desist in any specified conduct if the Commissioner finds:

* * *

(5) subsequent to the date of application, the licensee is convicted of, or pleads guilty or nolo contendere to, a violation of a state or federal anti-money-laundering statute felony in a domestic, foreign, or military court;

(6) the competence, financial condition and responsibility, financial and business experience, competence, character, or general fitness of the licensee, person in control of a licensee, or key individual does not command the confidence of the community; does not warrant belief that the business will be operated honestly, fairly, and efficiently pursuant to the applicable chapter of this title; or otherwise indicates that it is not in the public interest to permit the person to provide services in this State;

* * *

(d)(1) If the Commissioner refuses to renew a license, then not later than 15 days after the date the renewal request is refused, the licensee may request that the Commissioner reconsider the renewal request.

(2) The licensee shall submit the licensee's request in writing and shall respond specifically to the Commissioner's stated reason or reasons for refusing the renewal request.

(3) The Commissioner shall reconsider the renewal request in light of the licensee's request for reconsideration and response and shall issue a decision pursuant to the standards in subsection (a) of this section not later than 60 days after the date of the request.

(4) The licensee may appeal the Commissioner's decision by filing an action in the Civil Division of the Superior Court of Washington County not later than 15 days after the date of the Commissioner's decision.

Sec. 6. 8 V.S.A. § 2117 is amended to read:

§ 2117. EXAMINATIONS AND INVESTIGATIONS; EXAMINATION
FEES

* * *

(k) Information obtained during, or for, an examination or investigation under this part, including reports required pursuant to section 2120 of this chapter, shall be confidential and privileged and shall be treated as provided in section 23 of this title.

Sec. 7. 8 V.S.A. § 2252 is amended to read:

§ 2252. ~~REGISTRATION~~ LICENSE REQUIRED; FINANCIAL STABILITY

(a) A ~~company~~ person shall not engage in the business of consumer litigation funding without first ~~filing a registration with the Commissioner on a form prescribed by the Commissioner and submitting a registration fee and proof of financial stability~~ obtaining a license under this chapter.

(b) ~~A company shall file with the Commissioner evidence of its financial stability, which shall include proof of~~ In addition to the information required by section 2102 of this title, an applicant for a consumer litigation funding license shall provide, and a licensee shall at all times maintain, a surety bond or irrevocable letter of credit issued and confirmed by a financial institution

authorized by law to transact business in Vermont that is equal to double the amount of the company's largest funded amount in Vermont in the prior three calendar years or \$50,000.00, whichever is greater.

Sec. 8. 8 V.S.A. § 2260 is amended to read:

§ 2260. ANNUAL REPORTS

(a) Annually, on or before April 1, each company ~~registered~~ licensed under this chapter shall file a report with the Commissioner under oath or affirmation and in the form and manner prescribed by the Commissioner. In addition to information required by section 2120 of this title, the report shall include any information the Commissioner requires concerning the company's business and operations during the preceding calendar year within Vermont and, in addition, shall include:

* * *

Sec. 9. 8 V.S.A. § 2503 is amended to read:

§ 2503. DEFINITIONS

As used in this chapter:

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(8) "Eligible rating" ~~shall mean~~ means a credit rating of any of the three highest rating categories provided by an eligible rating service, whereby each category may include rating category modifiers such as "plus" or "minus" for S&P, or the equivalent for any other eligible rating service. Long-term credit ratings are deemed eligible if the rating is equal to A- or higher by S&P, or the

equivalent from any other eligible rating service. Short-term credit ratings are deemed eligible if the rating is equal to or higher than A-2 or SP-2 by S&P, or the equivalent from any other eligible rating service. In the event that ratings differ among eligible rating services, the highest rating shall apply when determining whether a security bears an eligible rating.

(9) “Eligible rating service” ~~shall mean~~ means any Nationally Recognized Statistical Rating Organization (NRSRO) as defined by the U.S. Securities and Exchange Commission, and any other organization designated by the Commissioner by rule or order.

(10) “Exchange,” when used as a verb in reference to a transaction or relationship involving virtual currency, means to assume or exercise control of virtual currency from or on behalf of a person, including momentarily, to buy, sell, trade, or convert:

(A) virtual currency for money, monetary value, bank credit, or one or more forms of virtual currency, or other consideration; or

(B) money, monetary value, bank credit, or other consideration for one or more forms of virtual currency.

(11) “In this State” means at a physical location within Vermont for a transaction requested in person. For a transaction requested electronically or by phone, the provider of money transmission may determine if the person requesting the transaction is “in this State” by relying on other information provided by the person regarding the location of the individual’s residential

address or a business entity's principal place of business or other physical address location, and any records associated with the person that the provider of money transmission may have to indicate such location, including an address associated with an account.

~~(11)~~(12) "Licensee" means a person licensed under this chapter.

~~(12)~~(13) "Limited station" means private premises where a check casher is authorized to engage in check cashing for not more than two days of each week solely for the employees of the particular employer or group of employers specified in the check casher license application.

~~(13)~~(14) "Mobile location" means a vehicle or a movable facility where check cashing occurs.

~~(14)~~(15) "Monetary value" means a medium of exchange, whether or not redeemable in money.

~~(15)~~(16) "Money" means a medium of exchange that is issued by the United States or a foreign government. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more governments.

~~(16)~~(17) "Money services" means money transmission, check cashing, or currency exchange.

~~(17)~~(18)(A) “Money transmission” means any of the following:

(i) selling or issuing payment instruments to a person located in this State;

(ii) selling or issuing stored value to a person located in this State;

~~or~~

(iii) receiving money for transmission from a person located in this State; or

(iv) virtual-currency business activity.

(B) The term “money transmission” includes payroll processing services.

(C) The term “money transmission” does not include the provision solely of telecommunications services or network access.

~~(18)~~(19) “Money transmission kiosk” means an automated, unstaffed electronic machine ~~that allows users to engage in~~ through which money transmission, ~~including any machine that is capable of accepting or dispensing cash in exchange for virtual currency~~ is offered, facilitated, or engaged in, in whole or in part, directly or indirectly. The term includes any virtual-currency kiosk. The term does not include consumer cell phones and other similar personal devices of consumers.

~~(19)~~(20)(A) “Outstanding money transmission obligations” shall be established and extinguished in accordance with applicable state law and ~~shall mean~~ means:

(i) any payment instrument or stored value issued or sold by the licensee to a person located in the United States or reported as sold by an authorized delegate of the licensee to a person that is located in the United States that has not yet been paid or refunded by or for the licensee, or escheated in accordance with applicable abandoned property laws; or

(ii) any money received for transmission by the licensee or an authorized delegate in the United States from a person located in the United States that has not been received by the payee or refunded to the sender, or escheated in accordance with applicable abandoned property laws.

(B) For purposes of this section, “in the United States” ~~shall include~~ includes, to the extent applicable, a person in any state, territory, or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico; or a U.S. military installation located in a foreign country.

~~(20)~~(21) “Payment instrument” means a written or electronic check, draft, money order, traveler’s check, or other written or electronic instrument for the transmission or payment of money or monetary value, whether or not negotiable. The term does not include stored value or any instrument that is:

(A) redeemable by the issuer only for goods or services provided by the issuer or its affiliate or franchisees of the issuer or its affiliate, except to the extent required by applicable law to be redeemable in cash for its cash value; or

(B) not sold to the public but issued and distributed as part of a loyalty, rewards, or promotional program.

~~(21)~~(22) “Payroll processing services” means receiving money for transmission pursuant to a contract with a person to deliver wages or salaries, make payment of payroll taxes to state and federal agencies, make payments relating to employee benefit plans, or make distributions of other authorized deductions from wages or salaries. The term does not include an employer performing payroll processing services on its own behalf or on behalf of its affiliate.

~~(22)~~(23) “Prevailing market value” means the value to buy or sell a particular virtual currency, as applicable, quoted on a virtual currency exchange operated by a licensee based in the United States, with sufficient volume to reflect the prevailing market price of such virtual currency.

~~(23)~~(24) “Receiving money for transmission” or “money received for transmission” means receiving money or monetary value in the United States for transmission within or outside the United States by electronic or other means.

~~(24)~~(25) “Stored value” means monetary value representing a claim against the issuer evidenced by an electronic or digital record, and that is intended and accepted for use as a means of redemption for money or monetary value, or payment for goods or services. The term includes “prepaid access” as defined by 31 C.F.R. § 1010.100, as may be amended.

Notwithstanding the foregoing, the term “stored value” does not include a payment instrument or closed loop stored value, or stored value not sold to the public but issued and distributed as part of a loyalty, rewards, or promotional program.

~~(25)~~(26) “Tangible net worth” means the aggregate assets of a licensee excluding all intangible assets, less liabilities, as determined in accordance with ~~United States~~ U.S. generally accepted accounting principles.

(27) “Transfer,” when used in reference to a transaction or relationship involving virtual currency, means to assume or exercise control of virtual currency from or on behalf of a person and to:

(A) credit the virtual currency to the account or digital wallet of another person;

(B) move the virtual currency from one account or digital wallet of a person to another account or digital wallet of the same person; or

(C) relinquish or transfer control or ownership of virtual currency to another person, digital wallet, distributed ledger address, or smart contract.

~~(26)~~(28) “U.S. dollar equivalent of virtual currency” means the prevailing market value of a particular virtual currency in United States dollars for a particular date or period specified in this chapter.

~~(27)~~(29)(A) “Virtual currency” means a digital representation of value that:

(i) is used as a medium of exchange, unit of account, or store of value; and

(ii) is not money, whether or not denominated in money.

(B) The term “virtual currency” does not include:

(i) a digital representation of value that can be redeemed for goods, services, discounts, or purchases solely as part of a customer affinity or rewards program with the issuing merchant or other designated merchants, or both, or can be redeemed for digital units in another customer affinity or rewards program, but cannot be, directly or indirectly, converted into, redeemed, or exchanged for money, monetary value, bank credit, or virtual currency; or

(ii) a digital representation of value issued by or on behalf of a publisher and used solely within an online game, game platform, or family of games sold by the same publisher or offered on the same game platform, and:

(I) has no market or application outside of such online game, game platform, or family of games;

(II) cannot be, directly or indirectly, converted into, redeemed, or exchanged for money, monetary value, bank credit, or virtual currency; and

(III) may or may not be redeemable for real-world goods, services, discounts, or purchases.

~~(28)~~(30) “Virtual-currency administration” means:

(A) issuing virtual currency with the authority to redeem such virtual currency for money, monetary value, bank credit, or other virtual currency; or

(B) issuing virtual currency that entitles the purchaser or holder of such virtual currency, or otherwise conveys or represents a right of the purchaser or holder of such virtual currency, to redeem such virtual currency for money, monetary value, bank credit, or other virtual currency.

~~(29)~~(31) “Virtual-currency business activity” means:

(A) exchanging or transferring virtual currency, engaging in virtual-currency administration, or engaging in virtual-currency storage, in each case whether directly or through an agreement with a virtual-currency control-services vendor;

(B) holding electronic precious metals or electronic certificates representing interests in precious metals on behalf of another person or issuing shares or electronic certificates representing interests in precious metals;

(C) buying or selling virtual currency as a consumer business; or

(D) receiving virtual currency or control of virtual currency for transmission or transmitting virtual currency, except where the transaction is undertaken for nonfinancial purposes and does not involve the transfer of more than a nominal amount of virtual currency.

~~(30)~~(32) “Virtual-currency control-services vendor” means a person that has control of virtual currency solely under an agreement with a person that, on behalf of another person, assumes control of virtual currency.

(33) “Virtual-currency kiosk” means a money transmission kiosk through which virtual-currency business activity is offered, facilitated, or engaged in, in whole or in part, directly or indirectly. Examples include money transmission kiosks that are capable of accepting or dispensing money, monetary value, or other forms of consideration in connection with a virtual-currency transaction.

~~(31)~~(34) “Virtual-currency kiosk operator” means a person that offers, facilitates, or engages in, in whole or in part, directly or indirectly, virtual-currency business activity via a ~~money transmission~~ virtual-currency kiosk located in this State or a person that owns, operates, or manages a ~~money transmission~~ virtual-currency kiosk located in this State ~~through which virtual-currency business activity is offered.~~

~~(32)~~(35) “Virtual-currency storage” means:

(A) maintaining possession, custody, or control over virtual currency on behalf of another person, including as a virtual-currency control-services vendor;

(B) issuing, transferring, or otherwise granting or providing to any person in this State any claim or right, or any physical, digital, or electronic instrument, receipt, certificate, or record representing any claim or right to

receive, redeem, withdraw, transfer, exchange, or control any virtual currency or amount of virtual currency; or

(C) receiving possession, custody, or control over virtual currency from a person in this State, in return for a promise or obligation to return, repay, exchange, or transfer such virtual currency or a like amount of such virtual currency.

(36) “Virtual-currency transaction” means a transaction, conducted or performed by any means, involving or related to virtual-currency business activity. Examples include purchasing stored value or closed loop stored value for the purpose of exchanging, transferring, buying, or selling virtual currency.

Sec. 10. 8 V.S.A. § 2506 is amended to read:

§ 2506. APPLICATION FOR LICENSE; ADDITIONAL INFORMATION

(a) In addition to the information required by section 2102 of this title, an application for a license under this subchapter shall state or contain:

* * *

(7) the name and address of any financial institution or credit union through which the applicant plans to conduct money services.

(b) For good cause shown and consistent with the purposes of this section, the Commissioner may waive one or more requirements of this section or permit an applicant to submit substituted information in lieu of the required information.

Sec. 11. 8 V.S.A. § 2507 is amended to read:

§ 2507. MONEY TRANSMISSION KIOSK REGISTRATION

(a) A licensee shall not locate, or allow a third party to locate, a money transmission kiosk in this State ~~that allows users of the money transmission kiosk to engage in money transmission~~ through which money transmission is offered, facilitated, or engaged in, in whole or in part, directly or indirectly, by or on behalf of the licensee unless the licensee registers the money transmission kiosk and obtains the prior approval of the Commissioner for its activation.

(b) To apply for registration and approval to activate a money transmission kiosk, a licensee shall submit an application, using a form prescribed by the Commissioner, that includes the ownership and location of the money transmission kiosk, an affidavit of all businesses and services to be offered at the kiosk, the written agreement between the licensee and the owner of the money transmission kiosk if different persons, and the text of each disclosure required pursuant to subsection (c) of this section along with a description of the form, timing, and location for each disclosure.

(c) Each money transmission kiosk shall disclose prominently and conspicuously, using as high a contrast or resolution as any other display or graphics on the money transmission kiosk, prior to the point at which a user of the money transmission kiosk is irrevocably committed to completing any transaction:

(1) on or at the location of the money transmission kiosk, or on the first screen of such kiosk, the name, address, ~~and~~ telephone number, and Vermont license number of the ~~owner of the kiosk~~ licensee and the days, time, and means by which a consumer can contact the ~~owner~~ licensee for consumer assistance; and

(2) on the screen of the money transmission kiosk:

~~(A) for a transaction that does not involve virtual currency, the amount of the fees or charges that will be assessed to the user of the money transmission kiosk for the transaction by the licensee and by the owner of the money transmission kiosk, a clear explanation of who is imposing each fee or charge and that such fees and charges are in addition to any fees or charges that may be imposed by other entities relevant to the particular transaction, and the method by which the user may cancel the transaction to avoid the imposition of fees or charges; and~~

~~(B) for a transaction that involves virtual currency, all disclosures required pursuant to subsection 2574(c) of this chapter, a clear explanation of who is imposing each consideration to be charged for the transaction, and that such consideration is in addition to any fees or charges that may be imposed by other entities relevant to the particular transaction, and the method by which the user may cancel the transaction to avoid the imposition of the consideration and other fees or charges.~~

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Sec. 12. 8 V.S.A. § 2519 is amended to read:

§ 2519. ACTIVITIES OF CHECK CASHERS AND CURRENCY

EXCHANGES

(a) Check cashing.

(1) A licensee, in every location conducting business under a license issued pursuant to this chapter, shall conspicuously post and at all times display a notice stating all fees charged. A licensee shall file with the Commissioner a statement of the fees charged at every location licensed for services offered there.

(2) Before a licensee shall deposit, with any financial institution or credit union, a payment instrument that is cashed by a licensee, each such item shall be endorsed with the actual name under which such licensee is doing business. Additionally, the words “Licensed Check Cashing Business” must be written legibly or stamped immediately after or below the name of the endorser.

(3) A licensee shall comply with all applicable federal statutes governing currency transaction reporting.

(4) A licensee may not alter or delete any information on any payment instrument cashed.

(5) A licensee shall issue a receipt for each check cashing transaction upon request. The receipt shall include, among other matters the licensee may

desire to include, the amount of the payment instrument and the total fee charged.

(6) A licensee shall not impose any fee or other charge for bad checks other than as expressly permitted under the provisions of 9 V.S.A. §§ 2311 and 2312.

(7) Within 10 business days after being advised by the payor financial institution or credit union that a payment instrument has been altered, forged, stolen, obtained through fraudulent or illegal means, or negotiated without proper legal authority, or represents the proceeds of illegal activity, the licensee shall notify the police department in the city or town where the payment instrument was cashed. If a payment instrument is returned to the licensee by the payor financial institution or credit union for any of the aforementioned reasons, the licensee may not release or destroy the payment instrument without the consent of the city or town police department, or other investigative law enforcement authority.

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Sec. 13. 8 V.S.A. § 2573 is amended to read:

§ 2573. CONDITIONS PRECEDENT TO ENGAGING IN VIRTUAL-
CURRENCY BUSINESS ACTIVITY

* * *

(b) ~~A person that engages in virtual currency business activity is engaged in the business of money transmission.~~ [Repealed.]

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Sec. 14. 8 V.S.A. § 2571 is amended to read:

§ 2571. DEFINITIONS

As used in this subchapter:

(1) “Blockchain” has the same meaning as in 12 V.S.A. § 1913(a)(1).

(2) “Blockchain analytics” means a software service that uses data from various virtual currencies and their applicable blockchains to provide a risk rating specific to digital wallet addresses from users of virtual-currency kiosks.

(3) “Digital wallet” means hardware or software that enables individuals to store and use virtual currency.

(4) “Digital wallet address” means an alphanumeric identifier representing a destination on a blockchain for a virtual currency transfer that is associated with a digital wallet.

(5) ~~“Exchange,” used as a verb, means to assume or exercise control of virtual currency from or on behalf of a person, including momentarily, to buy, sell, trade, or convert:~~

~~(A) virtual currency for money, monetary value, bank credit, or one or more forms of virtual currency, or other consideration; or~~

~~(B) money, monetary value, bank credit, or other consideration for one or more forms of virtual currency.~~

~~(6)~~ “Existing customer” means a consumer who:

(A) is engaging in a transaction at a virtual-currency kiosk in Vermont; and

(B) whose first transaction with the virtual-currency kiosk operator occurred more than 30 days prior.

~~(7)~~(6) “New customer” means a consumer who:

(A) is engaging in a transaction at a virtual-currency kiosk in Vermont; and

(B) whose first transaction with the virtual-currency kiosk operator occurred not more than 30 days prior.

~~(8) “Transfer” means to assume or exercise control of virtual currency from or on behalf of a person and to:~~

~~(A) credit the virtual currency to the account or digital wallet of another person;~~

~~(B) move the virtual currency from one account or digital wallet of a person to another account or digital wallet of the same person; or~~

~~(C) relinquish or transfer control or ownership of virtual currency to another person, digital wallet, distributed ledger address, or smart contract.~~

Sec. 14a. 8 V.S.A. § 2574 is amended to read:

§ 2574. REQUIRED DISCLOSURES

* * *

(c) ~~Disclosures.~~

~~(1)~~ Disclosures prior to each virtual-currency transaction. In connection with ~~any virtual-currency transaction effected through a virtual-currency kiosk in this State, or in~~ any transaction where the licensee or any affiliate thereof is acting in a principal capacity in a sale of virtual currency to, or purchase of virtual currency from, a customer, then immediately prior to effecting such a purchase or sale transaction with or on behalf of a customer, a licensee shall prominently disclose and shall require the customer to acknowledge and confirm the terms and conditions of the virtual-currency transaction, which shall include the following:

~~(A)~~(1) the type, value, date, precise time, and amount of the transaction;

and

~~(B)~~(2) the consideration charged for the transaction, including:

~~(i)~~(A) any charge, fee, commission, or other consideration for any trade, exchange, conversion, or transfer involving virtual currency; and

~~(ii)~~(B) any difference between the price paid by the customer for any virtual currency and the prevailing market ~~price~~ value of such virtual currency, if any;

~~(C)~~ for a customer of a virtual-currency kiosk, a description of the virtual-currency kiosk operator's refund policy, which shall be consistent with the requirements specified in subsections 2577(k) and (l) of this subchapter;

~~(D) for a customer of a virtual currency kiosk, the customer warning described in subdivision (g)(1) of this section; and~~

~~(E) the daily transaction limit, if applicable.~~

~~(2) Disclosures for new kiosk accounts. When opening an account for a new customer, and prior to entering into an initial transaction for, on behalf of, or with such customer, each virtual currency kiosk operator shall disclose relevant terms and conditions associated with its products, services, and activities and with virtual currency, generally, including disclosures substantially similar to the following:~~

~~(A) the customer's liability for unauthorized virtual currency transactions;~~

~~(B) under what circumstances the virtual currency kiosk operator will, absent a court or government order, disclose information concerning the customer's account to third parties;~~

~~(C) the customer's right to receive periodic account statements and valuations from the virtual currency kiosk operator;~~

~~(D) the customer's right to receive a receipt, trade ticket, or other evidence of a transaction;~~

~~(E) the customer's right to prior notice of a change in the virtual currency kiosk operator's rules or policies;~~

~~(F) a statement of the material risks associated with virtual currency transactions, generally, as described in subsection (h) of this section;~~

~~(G) the name and telephone number of the Department of Financial Regulation and a statement disclosing that a customer may contact the Department with questions or complaints about a licensee; and~~

~~(H) such other disclosures as are customarily given in connection with the opening of customer accounts.~~

(d) Licensee receipt requirements. Except as otherwise provided in subsection (e) of this section, at the conclusion of a virtual-currency transaction with or on behalf of a person, a licensee shall provide the person with a receipt that contains:

(1) the name and contact information of the licensee, including information the person may need to ask a question or file a complaint;

(2) the type of virtual currency, value quantity of virtual currency, date, precise time, and amount of the transaction expressed in U.S. currency;

(3) the consideration charged for the transaction, including:

(A) any charge, fee, commission, or other consideration for any trade, exchange, conversion, or transfer involving virtual currency; or

(B) the amount of any difference between the price paid by the customer for any virtual currency and the prevailing market ~~price~~ value of such virtual currency, if any; and

(4) any other information required pursuant to section 2562 of this title.

(e) Licensee daily confirmation. If a licensee discloses that it will provide a daily confirmation in the initial disclosure under subsection (b) of this

section, the licensee may elect to provide a single, daily confirmation for all transactions with or on behalf of a person on that day instead of a per-transaction confirmation.

~~(f) Kiosk transaction receipt. Notwithstanding any other provision of law to the contrary, a virtual currency kiosk operator shall provide a customer with both a paper and an electronic receipt in a retainable form for each virtual currency transaction completed at a virtual currency kiosk. In addition to the information required to be included in a receipt under subsection (d) of this section or under section 2562 of this title, each receipt for a virtual currency transaction completed at a virtual currency kiosk shall include:~~

- ~~(1) the identification of any applicable digital wallet address to which virtual currency is transmitted;~~
- ~~(2) the full name of the account owner;~~
- ~~(3) any unique transaction identifiers;~~
- ~~(4) a prominent statement of the virtual currency kiosk operator's refund obligations under this section, in a form approved by the Commissioner;~~
- ~~(5) a statement of the operator's liability for nondelivery or delayed delivery of virtual currency; and~~
- ~~(6) the name and telephone number of the Department of Financial Regulation and a statement disclosing that a customer may contact the Department with questions or complaints about an operator.~~

~~(g) Customer warning.~~

~~(1) Prior to entering into a virtual currency transaction with a customer at a virtual currency kiosk, and as required by subdivision (c)(1)(D) of this section, each virtual currency kiosk operator shall ensure a warning is disclosed to the customer substantially similar to the following:~~

~~Customer Notice. Please Read Carefully.~~

~~Did you receive a phone call from your bank, software provider, the police, or were you directed to make a payment for Social Security, a utility bill, an investment, warrants, or bail money at this kiosk? STOP~~

~~Is anyone on the phone pressuring you to make a payment of any kind?
STOP~~

~~I understand that the purchase and sale of cryptocurrency may be a final, irreversible, and nonrefundable transaction.~~

~~I confirm I am sending funds to a digital wallet I own or directly have control over. I confirm that I am using funds gained from my own initiative to make my transaction.~~

~~(2) A virtual currency kiosk operator shall ensure a customer has a readily accessible opportunity to end a transaction for any reason prior to its completion.~~

~~(h) Statement of material risks. As used in subdivision (c)(2)(F) of this section, a statement of material risks associated with virtual currency~~

~~transactions, generally, shall include disclosures substantially similar to the following:~~

~~(1) Virtual currency is not legal tender, is not backed by the government, and accounts and value balances are not subject to Federal Deposit Insurance Corporation or Securities Investor Protection Corporation protections.~~

~~(2) Legislative and regulatory changes or actions at the State, federal, or international level may adversely affect the use, transfer, exchange, and value of virtual currency.~~

~~(3) Transactions in virtual currency may be irreversible and, accordingly, losses due to fraudulent or accidental transactions may not be recoverable.~~

~~(4) Some virtual currency transactions shall be deemed to be made when recorded on a public ledger, which is not necessarily the date or time that the customer initiates the transaction.~~

~~(5) The value of virtual currency may be derived from the continued willingness of market participants to exchange fiat currency for virtual currency, which may result in the potential for permanent and total loss of value of a particular virtual currency should the market for that virtual currency disappear.~~

~~(6) There is no assurance that a person who accepts a virtual currency as payment today will continue to do so in the future.~~

~~(7) The volatility and unpredictability of the price of virtual currency relative to fiat currency may result in significant loss over a short period of time.~~

~~(8) The nature of virtual currency may lead to an increased risk of fraud or cyber attack.~~

~~(9) The nature of virtual currency means that any technological difficulties experienced by the virtual currency kiosk operator may prevent the access or use of a customer's virtual currency.~~

~~(10) Any bond or trust account maintained by the virtual currency kiosk operator for the benefit of its customers may not be sufficient to cover all losses incurred by customers.~~

Sec. 14b. 8 V.S.A. § 2577 is amended to read:

§ 2577. VIRTUAL-CURRENCY KIOSK OPERATORS PROHIBITION

(a) ~~Daily transaction limit~~ Prohibition of virtual currency kiosks.

~~(1) A virtual currency kiosk operator shall not accept or dispense more than \$2,000.00 of cash in a day in connection with virtual currency transactions with a single, new customer in this State via one or more virtual currency kiosks~~ No person shall locate, operate, or otherwise make available for use, or allow a third party to locate, operate, or otherwise make available for use, a virtual currency kiosk in Vermont.

~~(2) A virtual currency kiosk operator shall not accept or dispense more than \$5,000.00 of cash in a day in connection with virtual currency~~

~~transactions with a single, existing customer in this State via one or more virtual-currency kiosks~~ No person shall offer, facilitate, or engage in, in whole or in part, directly or indirectly, virtual-currency business activity via a money transmission kiosk in Vermont.

(b) ~~Fee cap~~ Registration expiration and refunds. ~~The aggregate fees and charges, directly or indirectly, charged to a customer related to a single transaction or series of related transactions involving virtual currency effected through a money transmission kiosk in this State, including any difference between the price charged to a customer to buy, sell, exchange, swap, or convert virtual currency and the prevailing market value of such virtual currency at the time of such transaction, shall not exceed the greater of the following:~~ With respect to any virtual-currency kiosk in operation in Vermont prior to July 1, 2026:

(1) ~~\$5.00; or~~ Expiration and termination. Any registration of a virtual-currency kiosk shall expire and terminate on July 1, 2026.

(2) ~~15 percent of the U.S. dollar equivalent of virtual currency involved in the transaction or transactions.~~

(c) ~~Single transaction.~~ ~~The purchase, sale, exchange, swap, or conversion of virtual currency, or the subsequent transfer of virtual currency, in a series of transactions shall be deemed to be a single transaction for purposes of subsections (a) and (b) of this section.~~

~~(d) Licensing requirement. A virtual currency kiosk operator shall comply with the licensing requirements of this subchapter to the extent that the virtual currency kiosk operator engages in virtual currency business activity.~~

~~(e) Operator accountability. If a virtual currency kiosk operator allows or facilitates another person to engage in virtual currency business activity via a virtual currency kiosk in this State that is owned, operated, or managed by the virtual currency kiosk operator, the virtual currency kiosk operator shall do all of the following:~~

~~(1) ensure that the person engaging in virtual currency business activity is licensed under subchapter 2 of this chapter to engage in virtual currency business activity and complies with all other applicable provisions of this chapter;~~

~~(2) ensure that any charges collected from a customer via the virtual currency kiosk comply with the fee cap established in subsection (b) of this section; and~~

~~(3) comply with all other applicable provisions of this chapter.~~

~~(f) Moratorium. To protect the public safety and welfare and safeguard the rights of consumers, virtual currency kiosks shall not be permitted to operate in Vermont prior to July 1, 2026. This moratorium shall not apply to a virtual currency kiosk that was duly licensed and operational in Vermont on or before June 30, 2024.~~

~~(g) Customer identification. For each virtual currency transaction occurring at a virtual currency kiosk in this State, the virtual currency kiosk operator shall verify the identity of the customer prior to accepting payment from the customer. A virtual currency kiosk operator shall not allow a customer to engage in any transaction at a virtual currency kiosk under any name, account, or identity other than the customer's own true name and identity. A virtual currency kiosk operator shall obtain a copy of a government issued identification card that identifies the customer and shall collect additional customer information, including the customer's name, date of birth, telephone number, address, and email address prior to accepting any payment from a customer at a virtual currency kiosk in this State. In addition, a virtual currency kiosk operator shall take a photograph of the customer in a retainable format at the virtual currency kiosk for each transaction. A virtual currency kiosk operator shall be strictly liable for any violation of this subsection.~~

~~(h) Customer support. A virtual currency kiosk operator shall offer live, toll free, telephone customer support during the hours of operation of a virtual currency kiosk. The customer support telephone number shall be displayed on the virtual currency kiosk or on the virtual currency kiosk screen.~~

~~(i) Mandatory live screening.~~

~~(1) A virtual currency kiosk operator shall identify and speak by telephone with:~~

~~(A) a new customer over 60 years of age prior to such customer's first virtual-currency transaction with the virtual-currency kiosk operator; or~~

~~(B) a customer attempting to conduct more than \$5,000.00 in virtual-currency transactions during any consecutive 10-day period.~~

~~(2) The virtual-currency kiosk operator's approval of a transaction subject to a mandatory live screening under this subsection shall be dependent upon its assessment of its communication with the customer during the screening.~~

~~(3) A virtual-currency kiosk operator shall record and retain a copy of each mandatory live screening.~~

~~(4) During the mandatory live screening, the virtual-currency kiosk operator shall:~~

~~(A) positively identify the customer;~~

~~(B) reconfirm any attestations made by the customer at the virtual-currency kiosk;~~

~~(C) discuss the purpose of the transaction; and~~

~~(D) discuss types of fraudulent schemes relating to virtual-currency.~~

~~(j) Blockchain analytics. A virtual-currency kiosk operator shall use blockchain analytics software and retain an established third party that specializes in performing blockchain analytics to assist in the prevention of sending purchased virtual currency from a virtual-currency kiosk operator to a digital wallet known to be affiliated with fraudulent activity at the time of a~~

~~transaction. The Commissioner may request evidence from any virtual-currency kiosk operator of its current use of blockchain analytics.~~

~~(k)~~ Full refund for new customers. The virtual-currency kiosk operator shall provide a full refund to a customer who was fraudulently induced to engage in a virtual-currency kiosk transaction, provided the fraudulently induced transaction occurred while the customer was a new customer and further provided the customer contacts the virtual-currency kiosk operator and a law enforcement or government agency to inform the operator and the agency of the fraudulent nature of the transaction within 90 days after the customer's last virtual-currency transaction with the virtual-currency kiosk operator. The refund shall include any fees charged in association with the fraudulently induced transaction.

~~(3)~~ Fee refund for existing customers. The virtual-currency kiosk operator shall provide a fee refund to an existing customer who has been fraudulently induced to engage in a virtual-currency kiosk transaction, provided the customer contacts the virtual-currency kiosk operator and a law enforcement or government agency to inform the operator and the agency of the fraudulent nature of the transaction within 90 days after the last fraudulently induced transaction. The refund shall include all fees charged in association with the fraudulently induced transaction.

(4) Records retention. Until at least July 1, 2031, or a later date required by the Commissioner, the virtual-currency kiosk operator shall maintain, and

make available to the Commissioner upon request, all records that the virtual-currency kiosk operator was required to maintain prior to July 1, 2026.

(c) Violations. For any virtual-currency kiosk transaction occurring after July 1, 2026, in violation of this section, the virtual-currency kiosk operator shall provide a full refund to the customer upon request of the customer or the Commissioner. The refund shall include any fees charged in association with the transaction.

~~(m) Fraud prevention. A virtual-currency kiosk operator shall take reasonable steps to detect and prevent fraud, including establishing and maintaining a written antifraud policy. The antifraud policy shall, at a minimum, include the following:~~

- ~~(1) the identification and assessment of fraud-related risk areas;~~
- ~~(2) procedures and controls to protect against identified risks;~~
- ~~(3) allocation of responsibility for monitoring risks;~~
- ~~(4) procedures for the periodic evaluation and revision of the antifraud procedures, controls, and monitoring mechanisms;~~
- ~~(5) procedures and controls that prevent more than one customer from using the same digital wallet;~~
- ~~(6) procedures and controls that enable the virtual-currency kiosk operator to prevent a digital wallet from being used at a virtual-currency kiosk it operates if the operator knows or reasonably should know the digital wallet is affiliated with fraudulent activities; and~~

~~(7) policies and procedures for using a risk-based method for monitoring customers on a post transaction basis.~~

~~(n) Due diligence policy. A virtual currency kiosk operator shall maintain, implement, and enforce a written Enhanced Due Diligence Policy. The Policy shall be reviewed and approved by the virtual currency kiosk operator's board of directors or an equivalent governing body of the virtual currency kiosk operator. The Policy shall identify, at a minimum, individuals who are at risk of fraud based on age or mental capacity.~~

~~(o) Compliance policies. A virtual currency kiosk operator shall maintain, implement, and enforce written compliance policies and procedures. Such policies and procedures shall be reviewed and approved by the virtual currency kiosk operator's board of directors or an equivalent governing body of the virtual currency kiosk operator.~~

~~(p) Compliance officer.~~

~~(1) A virtual currency kiosk operator shall designate and employ a compliance officer who meets the following requirements:~~

~~(A) is qualified to coordinate and monitor compliance with this section and all other applicable federal and State laws and regulations;~~

~~(B) is employed full time by the virtual currency kiosk operator; and~~

~~(C) is not an individual who owns more than 20 percent of the virtual currency kiosk operator by whom the individual is employed.~~

~~(2) Compliance responsibilities required under federal and State law and regulation shall be completed by one or more full-time employees of the virtual currency kiosk operator.~~

~~(q) Consumer protection officer. A virtual currency kiosk operator shall designate and employ a consumer protection officer who meets the following requirements:~~

~~(1) is qualified to coordinate and monitor compliance with this section and all other applicable federal and State laws and regulations;~~

~~(2) is employed full-time by the virtual currency kiosk operator; and~~

~~(3) is not an individual who owns more than 20 percent of the virtual-currency kiosk operator by whom the individual is employed.~~

~~(r) The Commissioner may adopt rules the Commissioner deems necessary and proper to carry out the purposes of this section, including with respect to what constitutes fraudulent activity or a fraudulently induced transaction in the context of customer transactions at a virtual-currency kiosk.~~

* * * Banking; Financial and Related Institutions * * *

Sec. 15. REPEAL

8 V.S.A. § 10101 (application of consumer protection chapter) is repealed.

Sec. 16. 8 V.S.A. § 10201 is amended to read:

§ 10201. STATEMENT OF POLICY ON FINANCIAL PRIVACY

It is the policy of this State to protect the privacy of customers of ~~financial institutions~~ regulated entities without unduly inhibiting the free flow of commerce or legitimate law enforcement activities.

Sec. 17. 8 V.S.A. § 10202 is amended to read:

§ 10202. DEFINITIONS

As used in this subchapter:

(1)~~(A)~~ “Account verification service” means any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of:

~~(A)(i)~~ assembling information on the frequency and location of depository account openings or attempted openings by a consumer, or forced closings by a depository institution of accounts of a consumer; or

~~(B)(ii)~~ authenticating or validating Social Security numbers or addresses for the purpose of reporting to third parties for use in fraud prevention.

(B) Mailing such information to a customer to the address provided by such customer shall not be prohibited by this subchapter.

(2) “Credit reporting agency” means any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or

other information on consumers for the purpose of reporting to third parties on the credit rating or creditworthiness of any consumer.

(3) “Customer” means, for purposes of this subchapter, any person who deposits, borrows, or invests with a ~~financial institution~~ regulated entity, including a surety or a guarantor on a loan.

(4) “Financial information” means an original or copy of, or information derived from:

(A) a document that grants signature authority over a deposit or share account;

(B) a statement, ledger card, or other record of a deposit or share account that shows transactions in or with respect to that deposit or account;

(C) a check, clear draft, or money order that is drawn on a ~~financial institution~~ regulated entity or issued and payable by or through a ~~financial institution~~ regulated entity;

(D) any item, other than an institutional or periodic charge, that is made under an agreement between a ~~financial institution~~ regulated entity and another person’s deposit or share account;

(E) any information that relates to a loan account or an application for a loan; or

(F) evidence of a transaction conducted by electronic or telephonic means.

(5) ~~“Financial institution” means a financial institution as defined in subdivision 11101(32) of this title, and a credit union, financial institution subsidiary, licensed lender, mortgage broker, or sales finance company organized or regulated under the laws of this State, the United States, or any other state or territory.~~

~~(6)~~ “Mercantile agency” means any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating business credit information or other information on businesses for the purpose of reporting to third parties on the credit rating or creditworthiness of any business.

(6) “Regulated entity” means a person required to be licensed or chartered pursuant to Part 2 of this title, an entity organized under the laws of another state that is regulated by its home state in an equivalent manner to an independent trust company chartered pursuant to chapter 77 of this title, a financial institution, a credit union, branches and agencies of foreign banks, and subsidiaries of any such person.

Sec. 18. 8 V.S.A. § 10203 is amended to read:

§ 10203. DISCLOSURE OF FINANCIAL RECORDS PROHIBITED

Except as otherwise expressly provided in this subchapter, a ~~financial institution~~ regulated entity, its officers, employees, agents, and directors shall not disclose to any person any financial information relating to a customer.

~~Financial institutions~~ Regulated entities shall adopt reasonable procedures to ensure compliance with this subchapter.

Sec. 19. 8 V.S.A. § 10204 is amended to read:

§ 10204. EXCEPTIONS

This subchapter does not prohibit any of the activities listed in this section. This section shall not be construed to require any ~~financial institution~~ regulated entity to make any disclosure not otherwise required by law. This section shall not be construed to require or encourage any ~~financial institution~~ regulated entity to alter any procedures or practices not inconsistent with this subchapter. This section shall not be construed to expand or create any authority in any person or entity other than a ~~financial institution~~ regulated entity.

* * *

(6) The preparation, examination, handling, or maintenance of financial records by any officer, employee, or agent of a ~~financial institution~~ regulated entity that has custody of the records.

(7) The examination of financial records by a certified public accountant while engaged by the ~~financial institution~~ regulated entity to perform an independent audit.

(8) The disclosure of information to a collection agency, its employees or agents, or to any person engaged by the ~~financial institution~~ regulated entity to assist in recovering an amount owed to the ~~financial institution~~ regulated entity, if such disclosure is made in the furtherance of recovering such amount.

* * *

(13) The exchange, in the regular course of business, of credit information between a ~~financial institution~~ regulated entity and a credit reporting agency, provided such exchange is in compliance with the Vermont Fair Credit Reporting Act, 9 V.S.A. chapter 63, subchapter 3, and the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.

(14) The exchange, in the regular course of business, of information between a ~~financial institution~~ regulated entity and an account verification service, provided such exchange is in compliance with the Vermont Fair Credit Reporting Act, 9 V.S.A. chapter 63, subchapter 3, and the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.

(15) The exchange, in the regular course of business, of information between a ~~financial institution~~ regulated entity and a mercantile agency, provided such exchange is solely for the purpose of reporting to third parties on the credit rating or creditworthiness of any business and is in compliance with the Vermont Fair Credit Reporting Act, 9 V.S.A. chapter 63, subchapter 3, and the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.

* * *

(19) Disclosure requested pursuant to subpoena, provided that no disclosure shall be made until 14 days after the ~~financial institution~~ regulated entity has notified the customer that financial information has been requested by subpoena. Such notice shall be served by first-class mail to the customer at

the most recent address known to the ~~financial institution~~ regulated entity. The provisions of this subdivision shall not apply where the subpoena is issued by or on behalf of a regulatory, criminal, or civil law enforcement agency.

(20) Disclosure required by order of court.

(21) Disclosure of customer financial information among directors, officers, employees, or agents of affiliated ~~financial institutions~~ regulated entities, provided that such disclosure is limited to information necessary or appropriate to the fulfillment of any such persons' duties and responsibilities to the ~~financial institution or institutions~~ regulated entity or entities, and provided further that such disclosure is made in compliance with the Vermont Fair Credit Reporting Act, 9 V.S.A. chapter 63, subchapter 3, and the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.

(22) Disclosure of customer financial information of one ~~financial institution~~ regulated entity to another ~~financial institution~~ regulated entity in connection with a proposed merger, consolidation, acquisition, or other reorganization transaction involving such institution, provided that no further disclosure is made except in compliance with this subchapter, and provided further that such disclosure is made in compliance with the Vermont Fair Credit Reporting Act, 9 V.S.A. chapter 63, subchapter 3, and the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.

(23) Disclosure in accordance with rules adopted by the Commissioner, provided that the Commissioner may permit disclosure by temporary order, until such time as rules under this subdivision are adopted.

(24) Disclosure sought by the Department of Taxes of this State pursuant to its authority and obligations under Title 32.

(25) Reports or disclosure of financial or other information to the Department of Disabilities, Aging, and Independent Living, pursuant to 33 V.S.A. §§ 6903(b), 6904, and 6915.

(26) Disclosure of information sought by the Department of Vermont Health Access or its agents pursuant to the Department's authority and obligations under 33 V.S.A. § 403.

Sec. 20. 8 V.S.A. § 10205 is amended to read:

§ 10205. PENALTIES

In addition to the authority provided ~~under sections 11601, 11602, and 11603~~ of in this title, the Commissioner may impose an administrative penalty of not more than \$1,000.00 for each violation of this subchapter resulting from willful conduct or from a failure by a ~~financial institution~~ regulated entity to provide reasonable supervision of its employees to prevent violations of this subchapter.

Sec. 21. 8 V.S.A. § 10206 is amended to read:

§ 10206. LEAD SOLICITATIONS

(a) As used in this section, “consumer” means a natural person residing in this State.

(b) A person shall not use the name, trade name, or trademark of any ~~financial institution~~ regulated entity in any written or oral advertisement or solicitation to a specifically identified consumer, or that contains specific information on the account or loan of a specifically identified consumer, for products or services, without the express written consent of the ~~financial institution~~ regulated entity.

(c) A person shall not include a loan number, loan amount, or any other specific loan information that is publicly available and relative to a specifically identified consumer in any written or oral solicitation for products or services unless the solicitation clearly and conspicuously states on the front page of the correspondence in bold-face type and in a type size at least equal to the body of the correspondence:

(1) that the person is not affiliated with or sponsored by the ~~financial institution~~ regulated entity;

(2) that the solicitation is not authorized by the ~~financial institution~~ regulated entity;

(3) that the ~~financial institution~~ regulated entity has not supplied the person with any loan information or personal or financial information referenced in the solicitation; and

(4) the name, address, and telephone number of the person who paid for the solicitation.

(d) The statements required by subsection (c) of this section shall also be given at the time of any oral solicitation to a specifically identified consumer.

(e) In addition to any other authority provided elsewhere, the Commissioner may enforce violations of this section against any person and may impose penalties as set forth in sections 2110 and 2115 of this title; may recover costs and attorney's fees, including court costs; may order any person to cease violating this section; and may take such other actions as the Commissioner deems necessary and appropriate. All administrative proceedings shall be conducted in accordance with 3 V.S.A. chapter 25 and any rules adopted by the Commissioner on hearing procedures.

(f) A ~~financial institution~~ regulated entity that has had its name, trade name, or trademark misrepresented in a solicitation in violation of this section may, in addition to any other remedy provided by law, bring an action in the Civil Division of the Superior Court in the county of its primary place of business or, if its primary place of business is located outside Vermont, in ~~Washington~~ the Superior Court of Washington County. The court shall award damages for each violation in the amount of actual damages demonstrated by the ~~financial~~

~~institution~~ regulated entity or \$5,000.00, whichever is greater. In any successful action for injunctive relief or for damages, the court shall award the ~~financial institution~~ regulated entity reasonable attorney's fees and costs, including court costs.

(g) A person's failure to comply with the requirements of this section shall constitute an unfair and deceptive act in commerce enforceable under 9 V.S.A. chapter 63.

(h) For purposes of this section, each solicitation sent to each consumer constitutes a separate violation.

Sec. 22. [Deleted]

Sec. 23. 8 V.S.A. § 10402 is amended to read:

§ 10402. LENDING REPORTS, DISCLOSURES, AND STANDARDS

~~An entity subject to this chapter~~ Any person licensed, chartered, or otherwise authorized, or required to be licensed, chartered, or otherwise authorized, under Part 2, 4, or 5 of this title shall be subject to and comply with the provisions of 9 V.S.A. chapter 4 (interest).

Sec. 24. 8 V.S.A. § 10403 is amended to read:

§ 10403. PROHIBITION ON DISCRIMINATION BASED ON SEX,

MARITAL STATUS, RACE, COLOR, RELIGION, NATIONAL

ORIGIN, AGE, SEXUAL ORIENTATION, GENDER IDENTITY,

OR DISABILITY

(a) Discrimination prohibited. No ~~financial~~ lending institution shall discriminate against any applicant for credit services on the basis of the sex, marital status, race, color, religion, national origin, age, sexual orientation, gender identity, or disability of the applicant, provided the applicant has the legal capacity to contract.

(b) Rulemaking. The ~~Department~~ Commissioner of Financial Regulation shall adopt rules necessary to carry out the provisions of this section.

(c) Definitions. As used in this section:

(1) “Adverse action” means denial, revocation, or termination of credit services. The term does not include a change in the terms of an account expressly agreed to by an applicant nor any action or forbearance relating to an account taken in connection with inactivity, default, or delinquency as to that account.

(2) “Applicant” means any person who applies to a ~~financial~~ lending institution directly for an extension, renewal, or continuation of credit or applies to a ~~financial~~ lending institution indirectly by use of an existing credit plan for an amount exceeding a previously established credit limit.

(3) “Application” means an oral or written request for an extension of credit that is made in accordance with procedures established by a ~~financial~~ lending institution for the type of credit requested. The term does not include the use of an account or line of credit to obtain an amount of credit that is within a previously established credit limit. A completed application means an

application in connection with which a ~~financial~~ lending institution has received all the information that the ~~financial~~ lending institution regularly obtains and considers in evaluating applications for the amount and type of credit requested, including credit reports, any additional information requested from the applicant, and any approvals or reports by governmental agencies or other persons that are necessary to guarantee, insure, or provide security for the credit or collateral. The ~~financial~~ lending institution shall exercise reasonable diligence in obtaining such information.

(4) “Credit services” means credit cards, personal loans, mortgage loans, and commercial loans.

(5) ~~“Financial institutions” means Vermont financial institutions, credit unions, and licensed lenders.~~

~~(6)~~ “Disability” applied to an applicant means a person with a disability as defined in 21 V.S.A. § 495d(5). As used in this section, an applicant with a disability does not include an alcoholic or drug abuser who, by reason of current alcohol or drug use, constitutes an unacceptable credit risk.

(6) “Lending institution” means a Vermont financial institution, Vermont credit union, and any person required to obtain, or exempt from the requirement to obtain, a lender license pursuant to section 2201 of this title.

(7) “Person” means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, association, or other entity.

(d) Notification requirements.

(1) Within 30 days ~~of~~ after reaching a decision on a completed application, a ~~financial~~ lending institution shall notify the applicant of its decision on the application.

(2) Each applicant against whom adverse action is taken shall receive a written statement of reasons for such action from the ~~financial~~ lending institution.

(3) For commercial credit only, a statement of reasons meets the requirements of this section only if it contains the specific reasons for the adverse action taken and cites the specific documentation or business judgment that supports the adverse decision on the application. Consumer credit shall be governed by the Equal Credit Opportunity Act (~~15 U.S.C. § 1691 et seq.~~), 15 U.S.C. § 1691 et seq., and regulations adopted pursuant to the Act.

(4) ~~Financial~~ Lending institutions shall be required to maintain a copy of all “statements of reasons” and the documentation upon which the decision was based for 24 months after the date of issuance.

(e) Civil enforcement. A ~~financial~~ lending institution that discriminates against an applicant in violation of this section shall be liable to the applicant for punitive damages, for actual damages sustained by the applicant as a result of the discrimination, and for costs and reasonable attorney’s fees as determined by the court.

Sec. 25. 8 V.S.A. § 10404 is amended to read:

§ 10404. HOME LOAN ESCROW ACCOUNTS

* * *

(e) The lender shall maintain escrow account funds in ~~a federally~~ an insured depository institution, as defined in the Federal Deposit Insurance Act, 12 U.S.C. § 1813, as may be amended, or as defined under the Federal Credit Union Act, 12 U.S.C. § 1781, as may be amended.

* * *

Sec. 26. 8 V.S.A. § 10405 is amended to read:

§ 10405. DEBT PROTECTION AGREEMENTS

* * *

(c)(1) Requirements. In the case of credit granted by a seller or retail seller of motor vehicles or of other goods and services that is not required to be licensed under chapter 73 of this title, such retail seller or seller of motor vehicles or of other goods and services shall, within 15 business days, sell, assign, or otherwise transfer the loan agreement, motor vehicle installment contract, or retail sales installment contract, together with the related debt protection agreement in accordance with the provisions of subdivision (2) of this subsection.

(2) All assignments, sales, or transfers of a loan agreement or motor vehicle or retail installment contract to which a debt protection agreement relates and the related debt protection agreement shall be to a financial

institution ~~as defined in subdivision 11101(32) of this title~~, a credit union, or an entity licensed under subdivision 2201(a)(1) or (4) of this title to engage in lending or sales financing.

* * *

Sec. 27. 8 V.S.A. § 10504 is amended to read:

§ 10504. BASIC BANKING RULES

The Commissioner may adopt rules to require Vermont financial institutions ~~with their principal place of business in this State~~ to offer basic checking and savings accounts if the Commissioner finds a material deterioration in the availability and cost of basic checking and savings account services in the results of any two consecutive surveys. ~~The rule~~ Any rules adopted by the Commissioner under this section shall ensure that any required basic banking will not impair the safety and soundness of any affected Vermont financial institution and that any such rules shall not adversely affect other consumers of banking services.

Sec. 28. 8 V.S.A. § 10505 is amended to read:

§ 10505. RETURNED CHECK CHARGES

No ~~depository institution~~ financial institution or credit union shall assess a returned check charge or similar charge against a depositor for the costs of processing a check received by that depositor and returned for nonsufficient funds by the institution upon which it was drawn.

Sec. 29. 8 V.S.A. § 10601 is amended to read:

§ 10601. APPLICATION

This subchapter shall apply to ~~all persons~~ any person licensed, chartered or otherwise authorized, ~~or registered~~, or required to be licensed, chartered or otherwise authorized, ~~or registered~~, under ~~Parts 2, 4, and 5~~ Part 2, 4, or 5 of this title.

Sec. 30. 8 V.S.A. § 10701 is amended to read:

§ 10701. DEFINITIONS

As used in this subchapter: the term

~~(1) Financial institution. “Financial institution” means a financial institution as defined in subdivision 10202(5) of this chapter.~~

~~(2) Reverse mortgage loan. “Reverse mortgage loan”~~ “reverse mortgage loan” means a loan that:

~~(A)~~(1) is a loan in which the committed principal amount is secured by a mortgage on residential property owned by the borrower;

~~(B)~~(2) is due upon sale of the property securing the loan or upon the death of the last surviving borrower or upon the borrower terminating use of the real property as a principal residence or upon the borrower’s default;

~~(C)~~(3) provides cash advances to the borrower based upon the equity or the value in the borrower’s owner-occupied principal residence; and

~~(D)~~(4) requires no payment of principal or interest until the entire loan becomes due and payable.

Sec. 31. 8 V.S.A. § 10702 is amended to read:

§ 10702. COUNSELING

Prior to accepting an application for a reverse mortgage loan, a ~~financial institution~~ person shall refer every borrower to counseling from an organization that is a housing counseling agency approved by the U.S. Department of Housing and Urban Development and shall receive certification from the counselor that the borrower has received in-person, face-to-face counseling. However, if the borrower cannot or chooses not to travel to a counselor and cannot be visited by a counselor in their home, telephone counseling shall be provided by counseling agencies that are authorized by the Department of ~~Financial Regulation~~. The certificate shall be signed by the borrower and the counselor and include the date of counseling; the name, address, and telephone number of both the borrower and the organization providing counseling; and shall be maintained by the holder of the reverse mortgage throughout the term of the reverse mortgage loan.

Sec. 32. 8 V.S.A. § 10703 is amended to read:

§ 10703. ANNUITIES

~~A financial institution~~ No person shall ~~not~~ require an applicant for a reverse mortgage loan to purchase an annuity as a condition of obtaining a reverse mortgage loan. ~~A financial institution or a broker arranging a reverse mortgage loan shall not~~ No person shall:

(1) offer an annuity to the borrower prior to the closing of the reverse mortgage or before the expiration of the right of the borrower to rescind the reverse mortgage agreement;

(2) refer the borrower to anyone for the purchase of an annuity prior to the closing of the reverse mortgage or before the expiration of the right of the borrower to rescind the reverse mortgage agreement.

Sec. 33. 8 V.S.A. § 10704 is amended to read:

§ 10704. LIMITATION ON REVERSE MORTGAGE LOAN PROGRAMS

No ~~financial institution~~ person shall issue a reverse mortgage loan unless it is a lender approved by the federal Department of Housing and Urban Development (HUD) to enter into a loan insured by the federal government and the reverse mortgage loan complies with all requirements for participation in the HUD Home Equity Conversion Mortgage Program or other similar federal reverse mortgage loan program from time to time created and is insured by the Federal Housing Administration or other similar federal agency or is a government sponsored enterprise reverse mortgage loan.

Sec. 34. 8 V.S.A. § 11101 is amended to read:

§ 11101. DEFINITIONS

Except as otherwise specifically provided elsewhere in this title, and subject to such definitions as the Commissioner adopts by rule, the following terms have the following meanings for purposes of this Part and Parts 1, 2, and 5 of this title, unless the context clearly indicates otherwise:

* * *

(65) “Vermont financial institution” means a special purpose financial institution or universal financial institution organized under the laws of the State of Vermont.

* * *

* * * Banking; Financial and Related Institutions * * *

Sec. 35. 8 V.S.A. § 12201 is amended to read:

§ 12201. MEETINGS

(a) The governing body of a Vermont financial institution shall meet ~~at least monthly, except as otherwise provided in this section~~ as often as is necessary to ensure proper oversight of the financial institution but not less than four times per year, at least once each quarter. A governing body that has appointed an executive committee that meets during the months in which the governing body does not meet shall meet at least six times a year, including once each quarter. Minutes If a governing body meets less than monthly, during the months in which the governing body does not meet, the governing body shall appoint an executive committee that meets monthly. The minutes of executive committee meetings shall be ratified by the governing body at the governing body’s next meeting.

* * *

Sec. 36. 8 V.S.A. § 13402 is amended to read:

§ 13402. MEETINGS OF THE GOVERNING BODY

(a) The governing body ~~shall hold at least six meetings each year at a time fixed in the internal governance documents, which shall be held~~ of a mutual or cooperative financial institution shall meet as often as is necessary to ensure proper oversight of the financial institution but not less than four times per year, at least once each quarter. In any month in which the governing body does not meet, the executive committee permitted under subsection 13403(c) of this title shall meet and a record of the meeting of the executive committee If a governing body meets less than monthly, during the months in which the governing body does not meet, the governing body shall appoint an executive committee that meets monthly. The minutes of executive committee meetings shall be ratified at the governing body's next meeting of the governing body.

* * *

Sec. 37. 8 V.S.A. § 14301 is amended to read:

§ 14301. LOAN AUTHORITY

(a) General loan authority. Unless otherwise prohibited by State law, a Vermont financial institution may make, sell, purchase, arrange, participate in, invest in, or otherwise deal in loans, derivative transactions, or extensions of credit for any lawful purpose.

(b) Written loan policy.

(1) A financial institution's governing body shall establish a written loan, credit, and derivative transaction policy, as applicable to the activities of

the financial institution, which shall be reviewed and ratified at least annually, that addresses at a minimum, the following:

- (A) loan portfolio mix and diversification standards and, if applicable, derivative transaction portfolio mix and diversification standards;
- (B) prudent underwriting standards, including loan-to-value limits that are clear and measurable;
- (C) loan administration procedures, including delegation and individual lending officer authority; ~~and~~
- (D) documentation and approval requirements to monitor compliance with lending policies; and
- (E) the circumstances under which a loan shall be considered for approval by the financial institution's governing body.

(2) The policies adopted pursuant to this section shall be consistent with safe and sound banking practices and appropriate to the size of the institution and nature and scope of its operations.

(c) Interest on loans. Financial institutions may demand and receive interest and charges on their loans in accordance with 9 V.S.A. chapter 4 (interest) or as otherwise provided by law.

(d) Limitations. A Vermont financial institution ~~may~~ shall not make loans, derivative transactions, or extensions of credit outstanding at one time to a borrower in excess of 20 percent of its capital or to a corporate group in excess of 50 percent of its capital. As used in this subsection, "corporate group"

means a person and all persons in whom it owns, controls, or holds the power to vote 50 percent or more of any class of voting securities. Total loans, derivative transactions, or other extensions of credit in excess of 10 percent of capital shall be approved by a majority of the governing body or the executive committee of that institution or organization.

(1) Loans, derivative transactions, or extensions of credit to one person ~~will~~ shall be attributed to another person and ~~each person~~ both persons shall be deemed a single borrower as follows:

(A) ~~In the case of obligations of one person, the~~ The proceeds will of a loan, derivative transaction, or extension of credit to one person shall be deemed to be used for the direct benefit of another person and ~~will~~ shall be attributed to the other person when the proceeds, or assets purchased with the proceeds, are transferred to another person, other than in a bona fide arm's length transaction where the proceeds are used to acquire property, goods, or services.

(B) A common enterprise shall be deemed to exist between persons, and the obligations of one person shall be attributed to the other person in the following situations:

(i) The expected source of repayment for each obligation is the same for each borrower and neither borrower has another source of income from which the loan, together with the borrower's other obligations, may be fully repaid. An employer shall not be treated as a source of repayment under

this subdivision (i) with respect to wages and salaries paid to an employee, unless the situation in subdivision (ii) of this subdivision (d)(1)(B) exists.

(ii)(I) Loans, derivative transactions, or extensions of credit are made:

(aa) to borrowers who are related directly or indirectly through common control, including where one borrower is directly or indirectly controlled by another borrower; and

(bb) substantial financial interdependence exists between or among the borrowers.

(II) For purposes of this subdivision (d)(1)(B)(ii), control is deemed to exist when a person directly or indirectly, or acting through or together with one or more persons, owns, controls, or has the power to vote 25 percent or more of any class of voting securities of another person; controls, in any manner, the election of a majority of the directors, trustees, or other persons exercising similar functions of another person; or has the power to exercise a controlling influence over the management or policies of another person.

(III) For purposes of this subdivision (d)(1)(B)(ii), substantial financial interdependence is deemed to exist when 50 percent or more of one borrower's gross receipts or gross expenditures are, on an annual basis, derived from transactions with the other borrower.

(IV) For the purposes of this subdivision (d)(1)(B)(ii), gross receipts and expenditures include gross revenues, gross expenses, intercompany loans, dividends, capital contributions, and similar receipts or payments.

(iii) Loans, derivative transactions, or extensions of credit are made to borrowers to acquire a business enterprise of which those borrowers will own more than 50 percent of the voting securities or voting interests.

(iv) The Commissioner determines, based upon an evaluation of the facts and circumstances of particular transactions, that a common enterprise exists.

~~(C) In the case of~~ The obligations of a partnership or association, the obligations of each shall be attributed to each general partner and of or each member of the association.

~~(C)(D) In the case of~~ The obligations of a general partner or a member of an association, the obligations of shall be attributed to the partnership or association.

~~(D) In the case of obligations of a corporation, the obligations of any subsidiaries in which it holds, directly or indirectly, a controlling equity interest.~~

~~(E) In the case of obligations of a limited liability company, the obligations of any subsidiaries in which it holds, directly or indirectly, a controlling equity interest.~~

~~(F) In the case of obligations of a corporation or limited liability company, the amount of a loan made to any other person to the extent that the proceeds of the loan directly or indirectly are to be:~~

~~(i) loaned to the corporation or limited liability company;~~

~~(ii) used for the acquisition from the corporation or limited liability company of any equity interest in the corporation or company; and~~

~~(iii) transferred to the corporation or limited liability company without fair and adequate consideration; provided, however, that the discharge of an equivalent amount of debt previously incurred in good faith for value shall be deemed fair and adequate consideration.~~

(E) The obligations of a general partner or a member of an association are not attributed to other general partners or members unless the situation in subdivision (A) or (B) of this subdivision (d)(1) exists.

(F) The obligations of persons in a corporate group are not attributed to other persons in the corporate group unless the situation in subdivision (A) or (B) of this subdivision (d)(1) exists.

(2) The following shall not be counted as indebtedness subject to the limitation of this subsection:

(A) ~~Indebtedness~~ indebtedness evidenced by bills of exchange or drafts drawn against existing values and secured by a lien upon goods in transit with shipper's order, bills of lading, or comparable instruments attached;

(B) ~~Indebtedness~~ indebtedness evidenced by notes or other paper secured by readily marketable corporate stock having a fair market value of not less than 125 percent of the indebtedness;

(C) ~~Indebtedness~~ indebtedness evidenced by notes or other paper secured by an assignment of accounts receivable or of amounts due to become due on open account or on a contract to the extent of not less than 125 percent of the indebtedness;

(D) ~~Indebtedness~~ indebtedness evidenced by notes or other paper secured by liens upon agricultural products, manufactured goods, or other chattels in storage in warehouses or elevators with warehouse or elevator receipts attached, or goods released on trust receipts, when the value of the security is not less than 125 percent of the indebtedness and the financial institution's interest is insured against loss by insurance policies or certificates of insurance attached;

(E) ~~Indebtedness~~ indebtedness arising out of the daily transaction of the business of any clearing house association;

(F) ~~Indebtedness~~ indebtedness secured to the extent thereof by the cash surrender value of life insurance evidenced by policies of insurance validity issued and assigned;

(G) ~~Indebtedness~~ indebtedness secured to the extent thereof by savings deposits or certificates of deposit of solvent financial institutions up to

the amount insured by the Federal Deposit Insurance Corporation, and duly assigned.;

(H) ~~Any~~ any portion of any indebtedness that the U.S. government, or an agency or instrumentality of the United States, unconditionally agreed to purchase or has unconditionally guaranteed as to payment of both principal and interest, including loans insured or guaranteed under the National Housing Act, 12 U.S.C. Chapter 13, or the Servicemen's Readjustment Act of 1944, 38 U.S.C. Chapter 37, as may be amended.;

(I) ~~Additional~~ additional funds advanced for the benefit of a borrower by a financial institution for payment of taxes, insurance, utilities, security, and maintenance and operating expenses necessary to preserve the value of real property securing the loan.;

(J) ~~Amounts~~ amounts paid against uncollected funds in the normal process of collection.;

and

(K) ~~That~~ that portion of a loan or extension of credit sold as a participation by a financial institution on a nonrecourse basis, provided that the participation results in a pro rata sharing of credit risk proportionate to the respective interests of the originating and participating lenders.

Sec. 38. 8 V.S.A. § 30101 is amended to read:

§ 30101. DEFINITIONS

~~As used in this part~~ Except as otherwise specifically provided elsewhere in this title, the following terms have the following meanings for purposes of this

Part and Parts 1, 2, and 4 of this title, unless the context clearly indicates otherwise:

* * *

Sec. 39. 8 V.S.A. § 31304 is amended to read:

§ 31304. MEETINGS OF GOVERNING BODY

(a) The governing body of a credit union shall meet as often as is necessary and at least monthly, provided that if the governing body delegates its authority to an executive committee, the executive committee shall meet during the months in which the governing body does not meet. The governing body shall meet at least six times a year, including once each quarter. The governing body and the executive committee, if appointed, shall keep complete minutes of all of their meetings, which minutes shall include the names of all persons present at each meeting to ensure the proper oversight of the credit union but not less than four times per year, at least once each quarter. Minutes If a governing body meets less than monthly, during the months in which the governing body does not meet, the governing body shall appoint an executive committee that meets monthly. The minutes of the executive committee meetings shall be ratified by the governing ~~board~~ body at the governing body's next meeting.

* * *

Sec. 40. 8 V.S.A. § 32204 is amended to read:

§ 32204. JOINT DEPOSITS

(a) The provisions of section 14204 of this title governing joint deposits shall apply to credit unions in the same manner as they apply to financial institutions as defined in subdivision 11101(32) of this title.

(b) Provided a joint deposit is made in the name of at least one member, a credit union shall treat a joint deposit the same regardless of whether the other individuals in whose name it is made are members or nonmembers.

(c) A single joint share account may hold more than one membership share, supporting membership for more than one member of the credit union. If more than one joint owner seeks credit union membership through the joint account, the joint account must contain a membership share for each member.

Sec. 41. 8 V.S.A. § 32301 is amended to read:

§ 32301. LOAN AUTHORITY

(a) Unless otherwise restricted by applicable law, rule, or regulation, a credit union may lend to its members, including where a coborrower is a nonmember, for such purposes as prescribed by the governing body. ~~The governing body shall establish a written loan policy in accordance with the requirements of this section.~~

(b) Every loan application shall be in writing upon a form approved by the governing body, which application shall state the purpose for which the loan is desired and the security, if any, offered for such loan.

(c) Written loan policy. A credit union's governing body and credit committee shall establish a written loan policy in accordance with this subsection.

(1) The written loan policy shall address, at a minimum, the following:

(A) loan portfolio mix and diversification standards;

(B) prudent underwriting standards, including loan-to-value limits that are clear and measurable;

(C) loan administration procedures, including delegation and individual lending officer authority; and

(D) documentation and approval requirements to monitor compliance with lending policies.

(2) The lending policies adopted pursuant to this section shall be consistent with safe and sound practices and appropriate to the size of the credit union and nature and scope of its operations.

(d) Interest and charges on loans. Credit unions may demand and receive interest and charges on their loans in accordance with 9 V.S.A. chapter 4 (interest) or as otherwise provided by law.

(e) Limitations. The total direct or indirect liabilities of any one member, however incurred, to a credit union shall not exceed, at the time incurred, the greater of \$200.00 or 10 percent of the credit union's total assets.

* * *

(2) The following shall not be counted as indebtedness subject to the limitation of this subsection:

* * *

(H) any portion of any indebtedness that the U.S. government, or an agency or instrumentality of the United States, unconditionally agreed to purchase or has unconditionally guaranteed as to payment of both principal and interest, including loans insured or guaranteed under the National Housing Act, 12 U.S.C. Chapter 13, or the Servicemen's Readjustment Act of 1944, 38 U.S.C. Chapter 37, as may be amended;

* * *

Sec. 42. 8 V.S.A. § 34101 is amended to read:

§ 34101. MERGERS

(a) General. Any two or more credit unions may merge into one Vermont credit union in accordance with the procedures and subject to the conditions and limitations set forth in this chapter.

* * *

(d) Vote of members. The plan of merger, as approved by the Commissioner, shall be submitted to the members of ~~each participating~~ the merging credit union for ~~their~~ approval at such credit union's annual meeting or at a special meeting called for that purpose in the following manner. Unless a greater percentage is required by the organizational documents of ~~either~~ the merging credit union, the plan of merger or assumption must be approved by a

majority vote of the members present at a meeting called for this purpose. The vote constitutes the adoption of the organizational documents of the continuing credit union, including amendments, contained in the merger agreement.

(e) Executed plan; certificate; effective date. The following provisions apply to the executed plan, certificate, and effective date:

(1) Upon approval by the members of ~~each participating~~ the merging credit union, an executive officer and the secretary of each credit union shall submit the executed plan of merger to the Commissioner, ~~together with the~~ certified by these officers, and the executive officer and the secretary of the merging credit union shall also submit the record of the vote of the members approving it, ~~each~~ certified by these officers.

(2) Upon receipt of the items in subdivision (1) of this subsection and evidence that the participating credit unions have complied with all applicable State and federal law, the Commissioner shall issue to the continuing credit union a certificate specifying the name of each participating credit union and the name of the continuing credit union. The continuing credit union shall file a copy of the certificate with the Secretary of State for recording. This certificate is conclusive evidence of the merger and of the correctness of all proceedings relating to the merger in all courts and places. The certificate may be filed in the appropriate land records offices to evidence the new name in which property of each participating credit union is to be held.

(3) Unless a later date is specified in the certificate, the merger is effective upon filing of the certificate as provided in subdivision (2) of this subsection, and the authority of all but the ~~surviving~~ continuing credit union shall terminate automatically upon filing. The Commissioner may file or order any credit union to file conforming documents with the Secretary of State.

(4) Any plan of merger may contain a provision that, notwithstanding approval of the members or the Commissioner, the plan may be abandoned at any time prior to the effective date of the merger by the governing body of any participating credit union, either at the absolute discretion of the governing body or upon the occurrence of any stated condition.

(f) Federal credit union as participant. If one of the parties to a merger with a Vermont credit union is a federal credit union, the participants shall comply with all requirements imposed by federal law for such merger in addition to the requirements contained in this title and shall provide evidence of such compliance to the Commissioner.

(g) Sections 34103 and 34104 of this title shall apply to mergers and acquisitions made pursuant to this chapter.

(h) Authority for expedited mergers. Notwithstanding any other provision of law to the contrary or any organizational document of any participating credit union, following approval of the plan of merger by a majority vote of the governing body of each participating credit union and receipt by the Commissioner of certified copies of the authorizing resolutions adopted by the

governing body of each participating credit union, the Commissioner may waive any requirement of subsection (b) of this section, may waive the requirements of subsection (d) of this section, and may order that the merger become effective immediately if the Commissioner believes that the action is necessary for the protection of the members or the public.

Sec. 43. 9 V.S.A. § 201 is amended to read:

§ 201. DEFINITIONS

As used in this subchapter:

(1) “Disbursement of loan funds” means the delivery of the loan funds by the lender to the settlement agent in one or more of the following forms:

(A) cash;

(B) wired funds or electronic transfer;

(C) certified check;

(D) checks issued by a governmental entity or instrumentality;

(E) cashier’s check, teller’s check, or any transfer of funds by check

or otherwise that is fully collected and unconditionally available to the settlement agent;

(F) checks or other drafts issued by a ~~state-chartered or federally chartered~~ financial institution, as defined in 8 V.S.A. § 11101(32); checks or other drafts issued by a ~~state-chartered or federally chartered~~ credit union, as defined in 8 V.S.A. § 30101(5); and

(G) checks issued by an insurance company licensed in the State of Vermont.

* * *

* * * Insurance * * *

Sec. 44. 8 V.S.A. § 3441 is amended to read:

§ 3441. FORMATION OF A MUTUAL INSURANCE HOLDING
COMPANY

* * *

(e) The mutual insurance holding company may use the word “mutual” in its name. The stock insurance company subsidiary of the mutual insurance holding company may continue to use the word “mutual” in its name if the name also includes the abbreviation “SI” for stock insurer.

Sec. 45. 8 V.S.A. § 3561 is amended to read:

§ 3561. ANNUAL STATEMENT AND QUARTERLY STATEMENTS

(a) Each domestic, foreign, and alien insurance company doing business in this ~~state~~ State shall ~~annually submit to the Commissioner a statement of its financial condition, verified by oath of two of its executive officers, on or before March 1 of each year, file a copy of its annual statement convention blank, along with any additional filings as prescribed by the Commissioner for the preceding year.~~ The statement shall be prepared in accordance with the ~~National Association of Insurance Commissioners’~~ NAIC’s Instructions Handbook and Accounting Practices and Procedures Manual ~~and~~, shall include

the signed jurat page verified by oath or affirmation of two of its executive officers and the actuarial certification, and shall be in such general form and context, as approved by, and shall contain any other information required by, the ~~National Association of Insurance Commissioners~~ NAIC with any useful or necessary modifications or adaptations thereof required or approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner. The statement of an alien insurer shall relate only to the insurer's transactions and affairs in the United States unless the Commissioner requires otherwise. A foreign or alien company, upon withdrawing from the State of Vermont shall pay to the Commissioner \$25.00 for the filing of its final financial statement.

(b) Each year, in a form and manner prescribed by the Commissioner, each domestic, foreign, and alien insurer doing business in this State shall file with the NAIC a copy of the quarterly statements exhibiting its condition and affairs for the period beginning on January 1 of the current calendar year through and including the last day of the quarter for which the report is being made. The first quarterly statement shall be filed on or before May 15. The second quarterly statement shall be filed on or before August 15. The third quarterly statement shall be filed on or before November 15. If any of the dates specified in this subsection falls on a day other than a business day, then the quarterly statement is due on or before the first business day preceding such

date. The information filed with the NAIC shall include a jurat page. A copy of any amendments and addenda to the quarterly statement filings subsequently filed with the Department shall also be filed with the NAIC.

(c) A foreign insurer domiciled in a state that has a law substantially similar to subsection (a) of this section shall be deemed in compliance with this section.

(d)(1) At the direction of the Commissioner, each domestic, foreign, and alien insurance company doing business in this State shall annually submit to the Commissioner, in a manner and on forms approved by the Commissioner, a statement of its market conduct performance for the purpose of permitting the participation of this State in the Market Conduct Annual Statement program of the ~~National Association of Insurance Commissioners~~ NAIC. The statement shall be prepared in accordance with the Market Conduct Annual Statement instructions published by the ~~National Association of Insurance Commissioners~~ NAIC, with any useful or necessary modifications or adaptations thereof required or approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner.

(2) Subject to section 22 of this title, all market conduct annual statements and other information filed pursuant to subdivision (1) of this subsection, all records, and other information of investigations conducted by the Department under this title, whether such statements, records, or

information are in the possession of another regulatory or law enforcement agency, the ~~National Association of Insurance Commissioners~~ NAIC, or any person, shall be confidential and privileged, shall not be made public, shall not be subject to subpoena, and shall not be subject to discovery or introduction into evidence in any private civil action.

~~(e)~~(e) The Commissioner shall adopt by rule the Medical Professional Liability Closed Claim Reporting Model Law of the ~~National Association of Insurance Commissioners~~ NAIC, as may be amended ~~from time to time~~, or in the Commissioner's discretion a substantially similar rule. Subject to section 22 of this title, information that identifies, directly or indirectly, the closed claims of a health care facility or a health care provider shall be confidential and privileged, shall not be made public, shall not be subject to subpoena, and shall not be subject to discovery or introduction into evidence in any private civil action.

Sec. 46. 8 V.S.A. § 3811 is amended to read:

§ 3811. DEPENDENTS' COVERAGE

Any group life policy issued under section 3803 (employee groups) or 3804 (labor union groups) or 3807 (public employee groups) or 3808 (trustee groups) or 3809 (employer association groups) or 3810a (associations and discretionary groups) of this title may be extended to insure the employees or members against loss due to the death of their spouses and children, or any class or classes thereof, subject to the following requirements:

(1) The premium for the insurance shall be paid by the policyholder, either from the employer's, union's, or association's funds or funds contributed by them or from funds contributed by the insured employees or members, or from both. If any part of the premium is to be derived from funds contributed by the insured employees or members, the insurance with respect to spouses and children may be placed in force only if at least 75 percent of the ~~then~~ eligible employees or members ~~who then have eligible dependents, excluding any as to whose family members evidence of insurability is not satisfactory to the insurer,~~ elected to make the required contribution. If no part of the premium is to be derived from funds contributed by the employees or members, all eligible employees or members, excluding any as to whose family members evidence of insurability is not satisfactory to the insurer, must be insured with respect to their spouses and children.

* * *

Sec. 47. 8 V.S.A. § 4724 is amended to read:

§ 4724. UNFAIR METHODS OF COMPETITION OR UNFAIR OR
DECEPTIVE ACTS OR PRACTICES DEFINED

The following are hereby defined as unfair methods of competition or unfair or deceptive acts or practices in the business of insurance:

* * *

(7) Unfair discrimination; arbitrary underwriting action.

(A) Making or permitting any unfair discrimination between insureds of the same class and equal risk in the rates charged for any contract of insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contracts.

(B) Making or permitting unfair discrimination against an applicant or an insured, on the basis of the sex, sexual orientation, gender identity, race, religion, national origin, or marital status of the applicant or insured, with regard to:

(i) underwriting standards and practices or eligibility requirements; or

(ii) rates; however, nothing in this subdivision shall prevent any person who contracts to insure another from setting rates for such insurance in accordance with reasonable classifications based on relevant actuarial data or actual cost experience in accordance with section 4686 of this title.

* * *

* * * Securities * * *

Sec. 48. 9 V.S.A. § 5202 is amended to read:

§ 5202. EXEMPT TRANSACTIONS

The following transactions are exempt from the requirements of sections ~~5301 through 5306~~ 5301–5306 and 5504 of this chapter:

* * *

(14)(A) A sale or an offer to sell securities by or on behalf of an issuer, if the transaction is part of a single issue in which:

~~(A)~~(i) not more than ~~25~~ 10 purchasers are present in this State during any 12 consecutive months, other than those designated in subdivision (13) of this section;

~~(B)~~(ii) a general solicitation or general advertising is not made in connection with the offer to sell or the sale of the securities;

~~(C)~~(iii) a commission or other remuneration is not paid or given, directly or indirectly, to a person other than a broker-dealer registered under this chapter or an agent registered under this chapter for soliciting a prospective purchaser in this State; and

~~(D)~~(iv) the issuer reasonably believes that all the purchasers in this State, other than those designated in subdivision (13) of this section, are purchasing for investment.

(B) The exemption specified in this subdivision (14) shall not apply to a federal covered security that is otherwise subject to a notice filing requirement under subsection 5302(c) of this title.

* * *

Sec. 49. 9 V.S.A. § 5302 is amended to read:

§ 5302. NOTICE FILING

* * *

(f) Investment companies subject to 15 U.S.C. § 80a-1 et seq. shall pay to the Commissioner an initial notice filing fee of \$2,275.00 and an annual renewal fee of \$2,025.00 for each ~~portfolio or~~ share class of investment company securities for which a notice filing is submitted. These fees are nonrefundable.

* * *

Sec. 50. 9 V.S.A. § 5305 is amended to read:

§ 5305. SECURITIES REGISTRATION FILINGS

(a) A registration statement may be filed by the issuer, a person on whose behalf the offering is to be made, or a broker-dealer registered under this chapter.

(b) A person filing a registration statement shall pay a filing fee of \$600.00. A person filing a registration statement in connection with the New England Crowdfunding Initiative shall be exempt from the filing fee requirement. ~~Open-end investment companies shall pay a registration fee and an annual renewal fee for each portfolio as long as the registration of those securities remains in effect.~~ The fee is nonrefundable.

* * *

(k) At the time of filing a request for exemption from registration, the applicant shall pay a fee of \$200.00. The fee is nonrefundable.

Sec. 51. 9 V.S.A. § 5602 is amended to read:

§ 5602. INVESTIGATIONS AND SUBPOENAS

* * *

(f) Unless presented by an emergency or exigent circumstances, the Commissioner shall give notice to the Attorney General and U.S. Attorney not less than five business days before applying to the ~~Washington County~~ Superior Court of Washington County to compel the testimony, the filing of the statement, the production of the record, or the giving of other evidence under subsection (e) of this section. In the case of an emergency or exigent circumstances, the Commissioner shall notify the Attorney General and U.S. Attorney as soon as possible before applying to the ~~Washington County~~ Superior Court of Washington County.

* * *

Sec. 52. 9 V.S.A. § 5603(b)(2)(C) is amended to read:

(C) imposing a civil penalty up to \$15,000.00 for each violation; an order of rescission, restitution, or disgorgement directed to a person that has engaged in an act, practice, or course of business constituting a violation of this chapter or the predecessor act or a rule adopted or an order issued under this chapter or the predecessor act. The court may increase a civil penalty amount by not more than \$5,000.00 per violation for violations involving a person who is a vulnerable adult as defined in 33 V.S.A. § 6902(14)(~~34~~)34. The limitations

on civil penalties contained in this subdivision shall not apply to settlement agreements; and

Sec. 53. 9 V.S.A. § 5604(e) is amended to read:

(e) For purposes of determining any sanction to be imposed under subsections ~~(a) through (d)~~ (a)–(d) of this section, the Commissioner shall consider among other factors, ~~the frequency and persistence of the conduct constituting a violation of this chapter or a rule or order of the Commissioner under this chapter and the number of persons adversely affected by the conduct, and the resources of the person committing the violation;~~

(1) the extent that the violation harmed or might have harmed investors, access to capital markets, or public confidence in the securities industry and the integrity of capital markets;

(2) whether the respondent knew or had reason to know that the violation existed and whether the violation was intentional;

(3) the economic benefit, if any, that could have been anticipated from an intentional or knowing violation;

(4) the length of time the violation existed;

(5) the deterrent effect of the penalty;

(6) the economic resources of the respondent;

(7) the respondent's record of compliance; and

(8) any other aggravating or mitigating circumstances.

Sec. 54. 9 V.S.A. § 5616 is amended to read:

§ 5616. VERMONT FINANCIAL SERVICES EDUCATION AND VICTIM
RESTITUTION SPECIAL FUND

(a) Purpose. The purpose of this section is to provide:

- (1) funds for the purposes specified in subsection 5601(d) of this title;
- (2) restitution assistance to victims of securities violations who:

(A) were awarded restitution in a final order issued by the Commissioner or were awarded restitution in the final order in a legal action initiated by the Commissioner;

(B) have not received the full amount of restitution ordered before the application for restitution assistance is due; and

(C) demonstrate to the Commissioner's satisfaction that there is no reasonable likelihood that they will receive the full amount of restitution in the future; and

- (3) funds for the purposes specified in section 5617 of this title.

(b) Definitions. As used in this section:

(1) "Claimant" means a person who files an application for restitution assistance under this section ~~on behalf of a victim. The claimant and the victim may be the same but do not have to be the same. The term includes the named party in a restitution award in a final order, the executor of a named party in a restitution award in a final order, and the heirs and assigns of a named party in a restitution award in a final order.~~

(2) “Dependent child” means a person who falls within the definition of “qualifying child” as defined in 26 U.S.C. § 152, as may be amended, with respect to the victim or the victim’s surviving spouse as of the date the final order is issued.

(3) “Final order” means ~~a final~~ an order issued by the Commissioner that disposes of a securities violation claim or claims or ~~a final~~ an order in a legal action initiated by the Commissioner in the Superior Court of Washington County that disposes of a securities violation claim or claims.

~~(3)~~(4) “Fund” means the Vermont Financial Services Education and Victim Restitution Special Fund created by this section.

~~(4)~~(5) “Securities violation” means a violation of this chapter and any related administrative rules.

~~(5)~~(6) “Victim” means a person who was awarded restitution in a final order.

~~(6)~~(7) “Vulnerable ~~person~~ adult” means:

(A) a person who meets the definition of vulnerable ~~person~~ adult under 33 V.S.A. § 6902~~(14)~~(34); or

(B) a person who is at least 60 years of age.

(c) Eligibility.

(1) ~~A natural person who was a resident of Vermont at the time of the alleged fraud is eligible for restitution assistance~~ The claimant shall be limited

to the victim or, in the case of a deceased victim, the deceased victim's surviving spouse or dependent child.

(2) The Commissioner shall not award securities restitution assistance under this section:

(A) unless the victim is a natural person who was a resident of Vermont at the time of the securities violation addressed in the final order;

(B) to more than one claimant per victim;

~~(B)(C)~~ unless the person ordered to pay restitution has not paid the full amount of restitution owed to the victim before the application for restitution assistance from the fund is due;

~~(C)(D)~~ if there was no award of restitution in the final order; or

~~(D)(E) to a claimant who has not exhausted his or her appeal rights.~~

~~(d) Denial of assistance. The Commissioner shall not award restitution assistance if the victim:~~

~~(1)(i)~~ sustained the monetary injury as a result of:

~~(A)(I)~~ participating or assisting in the securities violation; or

~~(B)(II)~~ attempting to commit or committing the securities violation;

or

~~(2)(ii)~~ profited or would have profited from the securities violation.

~~(e)(d)~~ Application for restitution assistance and maximum amount of restitution assistance award.

(1) The Commissioner may adopt procedures and forms for application for restitution assistance under this section.

(2) An application must be received by the Commissioner within two years after the deadline for payment of restitution established in the final order.

(3) Except as provided in subdivision (4) of this subsection, the maximum award from the Fund for each claimant shall be the lesser of \$25,000.00 or 25 percent of the amount of unpaid restitution awarded in a final order.

(4) If the ~~claimant is~~ victim was a vulnerable ~~person~~ adult at the time of the securities violation addressed in the final order, the maximum award from the Fund shall be the lesser of \$50,000.00 or 50 percent of the amount of unpaid restitution awarded in the final order.

(5) The following information provided in or with an application for restitution assistance is confidential:

(A) the claimant's and victim's name, date of birth, physical address, mailing address, email address, and phone number;

(B) each of the items listed in subdivisions 2430(10)(A)(i)–(vii) of this title pertaining to the claimant or victim; and

(C) any other information provided in or with an application for restitution assistance that alone, or in combination with the other information provided in or with the application, would allow a person to identify the claimant or victim with reasonable certainty.

~~(f)~~(e) Vermont Financial Services Education and Victim Restitution Special Fund. The Vermont Financial Services Education and Victim Restitution Special Fund, pursuant to 32 V.S.A. chapter 7, subchapter 5, is created to provide funds for the purposes specified in this section, in subsection 5601(d) of this title, and in section 5617 of this title. All monies received by the State for use in financial services education initiatives pursuant to subsection 5601(d) of this title, in providing uncompensated victims restitution pursuant to this section, or in providing whistleblower awards pursuant to section 5617 of this title shall be deposited into the Fund. The Commissioner may direct a party to deposit a sum not to exceed 15 percent of the total settlement amount into the Fund in conjunction with settling an enforcement matter within the Department's jurisdiction, as described in 8 V.S.A. § 11(a). Interest earned on the Fund shall be retained in the Fund.

~~(g)~~(f) Award not subject to execution, attachment, or garnishment. An award made by the Commissioner under this section is not subject to execution, attachment, garnishment, or other process.

~~(h)~~(g) State's liability for award. The Commissioner shall have the discretion to suspend applications and ~~awards~~ determine award amounts based on the solvency of the Fund and the designation of monies in the Fund to the other purposes established for the Fund. The State shall not be liable for any determination made under this section.

(i)(h) Subrogation of rights of State.

(1) The State is subrogated to the rights of the person awarded restitution under this chapter to the extent of the award.

(2) The subrogation rights are against the person ~~who committed the securities violation~~ or a person liable for the pecuniary loss ordered to pay restitution to the victim for the securities violation addressed in the final order.

(i) Forfeiture of restitution award.

(1) A person shall not engage in dishonesty, forgery, fraud, or deceit in connection with an application for restitution assistance.

(2) A person found by the Commissioner or a court to have engaged in dishonesty, forgery, fraud, or deceit in connection with an application for restitution assistance shall forfeit to the Department any amount paid in a restitution assistance award and may be subject to penalties and other remedies available pursuant to section 5508, 5603, or 5604 of this title or other law.

(j) Rulemaking authority. The Commissioner may adopt rules to implement this section.

* * * Miscellaneous Housekeeping * * *

Sec. 55. 8 V.S.A. § 19 is amended to read:

§ 19. FINANCIAL INSTITUTION SUPERVISION FUND; FEES AND DEPARTMENTAL EXPENSES

(a) The Commissioner shall charge each financial institution or financial institution applicant for Department services rendered. Charges for Department services shall be billed as follows:

* * *

(f) There is hereby created a fund to be known as the Financial Institution Supervision Fund for the purpose of providing the financial means for the Commissioner of Financial Regulation to administer Parts 2, 4, and 5 of this title, 9 V.S.A. Parts 1 and 3, and Title 9A. All fees and assessments received by the Department pursuant to such administration shall be deposited ~~in~~ into this Fund.

(g) All payments from the ~~Banking~~ Financial Institution Supervision Fund for the maintenance of staff and associated expenses, including contractual services as necessary, shall be disbursed from the State Treasury only upon warrants issued by the Commissioner of Finance and Management after receipt of proper documentation regarding services rendered and expenses incurred.

(h) Any entity, subject to the assessment under subsection (d) of this section, that converts or relinquishes its State charter or closes all of its branches or offices in this State will be responsible for a pro rata share of the assessment made under subsection (d) of this section for the final period it was authorized to conduct business under this title.

Sec. 56. REPEALS

(a) 8 V.S.A. chapter 3 (the Commissioner) is repealed and 8 V.S.A. § 80 (Insurance Regulatory and Supervision Fund) is recodified as 8 V.S.A. § 3317 pursuant to Sec. 57 of this act.

(b) 8 V.S.A. § 3470 (allowing mortgage loans to a husband and wife if one or both is a “minor,” defined as 18 years of age or older) is repealed.

Sec. 57. 8 V.S.A. § 3317 is added to read:

§ 3317. INSURANCE REGULATORY AND SUPERVISION FUND

(a) There is hereby created a fund to be known as the Insurance Regulatory and Supervision Fund for the purpose of providing the financial means for the Commissioner of Financial Regulation to administer Part 3 of this title, and except as provided under subsection 6017(a) of this title. All fees and assessments received by the Department pursuant to such administration shall be credited to this Fund. All fines and administrative penalties, however, shall be deposited directly into the General Fund.

(b) All payments from the Insurance Regulatory and Supervision Fund for the maintenance of staff and associated expenses, including contractual services as necessary, shall be disbursed from the State Treasury only upon warrants issued by the Commissioner of Finance and Management, after receipt of proper documentation regarding services rendered and expenses incurred.

(c) Annually, \$30,000.00 shall be transferred from the Fund to the Division of Fire Safety Special Fund established in 20 V.S.A. § 3157.

(d) At the end of each fiscal year, the balance in the Insurance Regulatory and Supervision Fund shall be transferred to the General Fund.

(e) The Commissioner of Finance and Management may anticipate receipts to the Insurance Regulatory and Supervision Fund and issue warrants based thereon.

Sec. 58. 9 V.S.A. § 5411 is amended to read:

§ 5411. POSTREGISTRATION REQUIREMENTS

(a) Subject to ~~15 U.S.C. § 78o(h)~~ 15 U.S.C. § 78o(i) or ~~15 U.S.C. § 80b-22~~ 15 U.S.C. § 80b-18a, a rule adopted or order issued under this chapter may establish minimum financial requirements for broker-dealers registered or required to be registered under this chapter and investment advisers registered or required to be registered under this chapter.

(b) Subject to ~~15 U.S.C. § 78o(h)~~ 15 U.S.C. § 78o(i) or ~~15 U.S.C. § 80b-22~~ 15 U.S.C. § 80b-18a, a broker-dealer registered or required to be registered under this chapter and an investment adviser registered or required to be registered under this chapter shall file such financial reports as are required by a rule adopted or order issued under this chapter. If the information contained in a record filed under this subsection is or becomes inaccurate or incomplete in a material respect, the registrant shall promptly file a correcting amendment.

(c) Subject to ~~15 U.S.C. § 78o(h)~~ 15 U.S.C. § 78o(i) or ~~15 U.S.C. § 80b-22~~
15 U.S.C. § 80b-18a:

(1) a broker-dealer registered or required to be registered under this chapter and an investment adviser registered or required to be registered under this chapter shall make and maintain the accounts, correspondence, memoranda, papers, books, and other records required by rule adopted or order issued under this chapter;

(2) broker-dealer records required to be maintained under subdivision (1) of this subsection may be maintained in any form of data storage acceptable under 15 U.S.C. § 78q(a) if they are readily accessible to the Commissioner; and

(3) investment adviser records required to be maintained under subdivision (1) of this subsection may be maintained in any form of data storage required by rule adopted or order issued under this chapter.

(d) The records of a broker-dealer registered or required to be registered under this chapter and of an investment adviser registered or required to be registered under this chapter are subject to such reasonable periodic, special, or other audits or inspections by a representative of the Commissioner, within or without this State, as the Commissioner considers necessary or appropriate in the public interest and for the protection of investors. An audit or inspection may be made at any time and without prior notice. The Commissioner may copy, and remove for audit or inspection copies of, all records the

Commissioner reasonably considers necessary or appropriate to conduct the audit or inspection. The Commissioner may assess a reasonable charge for conducting an audit or inspection under this subsection.

(e) Subject to ~~15 U.S.C. § 78o(h)~~ 15 U.S.C. § 78o(i) or ~~15 U.S.C. § 80b-22~~ 15 U.S.C. § 80b-18a, a rule adopted or order issued under this chapter may require a broker-dealer or investment adviser that has custody of or discretionary authority over funds or securities of a customer or client to obtain insurance or post a bond or other satisfactory form of security in an amount to be established by rule or order. The Commissioner may determine the requirements of the insurance, bond, or other satisfactory form of security. Insurance or a bond or other satisfactory form of security may not be required of a broker-dealer registered under this chapter whose net capital exceeds, or of an investment adviser registered under this chapter whose minimum financial requirements exceed, the amounts required by rule or order under this chapter. The insurance, bond, or other satisfactory form of security must permit an action by a person to enforce any liability on the insurance, bond, or other satisfactory form of security if instituted within the time limitations in subdivision 5509(j)(2) of this chapter.

(f) Subject to 15 U.S.C. § 80b-18a, an investment advisor registered or required to be registered under this chapter shall maintain adequate insurance for the risk of a cybersecurity breach. The Commissioner may establish

requirements for such cybersecurity insurance, including criteria that may be used to determine if the cybersecurity insurance is adequate.

(g) Subject to ~~15 U.S.C. § 78o(h)~~ 15 U.S.C. § 78o(i) or ~~15 U.S.C. § 80b-22~~ 15 U.S.C. § 80b-18a, an agent may not have custody of funds or securities of a customer except under the supervision of a broker-dealer, and an investment adviser representative may not have custody of funds or securities of a client except under the supervision of an investment adviser or a federal covered investment adviser. A rule adopted or order issued under this chapter may prohibit, limit, or impose conditions on a broker-dealer regarding custody of funds or securities of a customer and on an investment adviser regarding custody of securities or funds of a client.

~~(g)~~(h) With respect to an investment adviser registered or required to be registered under this chapter, a rule adopted or order issued under this chapter may require that information or other record be furnished or disseminated to clients or prospective clients in this State as necessary or appropriate in the public interest and for the protection of investors and advisory clients.

~~(h)~~(i) A rule adopted or order issued under this chapter may require an individual registered under section 5402 or 5404 of this chapter to participate in a continuing education program approved by the Securities and Exchange Commission and administered by a self-regulatory organization or, in the absence of such a program, a rule adopted or order issued under this chapter

may require continuing education for an individual registered under section 5404.

* * * Providers of Merchant Cash Advances; Licensing and Regulation * * *

Sec. 59. 8 V.S.A. § 2115(e) is amended to read:

(e)(1) A loan contract made in knowing and willful violation of subdivision 2201(a)(1) of this title is void, and the lender shall not collect or receive any principal, interest, or charges; provided, however, in the case of a loan made in violation of subdivision 2201(a)(1) of this title, where the Commissioner does not find a knowing and willful violation, the lender shall not collect or receive any interest or charges, but may collect and receive principal.

(2) A commercial financing contract made in knowing and willful violation of subdivision 2247(b)(1) or (2) of this title is void, and the provider shall not collect or receive any amounts, payments, receivables, or charges; provided, however, in the case of a commercial financing contract made in violation of subdivision 2247(b)(1) or (2) of this title, where the Commissioner does not find a knowing and willful violation, the provider may only collect and receive an amount up to the disbursement amount paid to the recipient, after any fees deducted or withheld at disbursement, and the provider may not collect or receive any charges or other amounts.

(3) If a person who receives an order that directs the person to cease exercising the duties and powers of a licensee ~~and imposes an administrative penalty under this part~~ continues to perform the duties or exercise the powers

of a licensee without ~~satisfying the penalty, or otherwise reaching a~~
satisfactory resolution between the parties that allows the person to exercise
such duties and powers, or securing a decision vacating the order by the
Commissioner or by a court of competent jurisdiction, a loan contract or
commercial financing contract made by the person after receipt of such order is
void and the ~~lender~~ person shall not collect or receive any principal, interest, ~~or~~
amounts, payments, receivables, or charges.

Sec. 60. 8 V.S.A. § 2247 is added to read:

§ 2247. COMMERCIAL FINANCING

(a) Definitions. As used in this section:

(1) “Commercial financing” means a sales-based financing or factoring
transaction.

(2) “Factoring transaction” means an accounts receivable purchase
transaction that includes an agreement to purchase, transfer, assign, or sell a
legally enforceable claim for payment held by a recipient for goods the
recipient has supplied or services the recipient has rendered that have been
ordered but for which payment has not yet been made. A purchase of accounts
receivable in connection with the purchase and sale of substantially all of the
assets of a business or line of business shall not be deemed to be a factoring
transaction.

(3) “Finance charge” means the cost of financing as a dollar amount. It
includes any charge payable directly or indirectly by the recipient and imposed

directly or indirectly by the provider as an incident to or a condition of the extension of financing. It includes all charges that would be included under 12 C.F.R. Part 1026.4 as if the transaction were subject to 12 C.F.R. Part 1026.4. In addition, the finance charge shall include any charges as determined by the Commissioner. For the purposes of a factoring transaction, the finance charge includes the discount taken on the face value of the accounts receivable.

(4) "Provider" means a person who provides or will provide commercial financing to a recipient or who extends a specific offer of commercial financing to a person or to the person's authorized representative. A provider also includes a person who solicits prospective recipients of commercial financing or who presents specific offers of commercial financing on behalf of a third party.

(5) "Recipient" means a person that receives or applies for commercial financing or is made a specific offer of commercial financing by a provider. A recipient may also be an authorized representative of such person.

(6) "Sales-based financing" means a transaction that is repaid by the recipient to the provider, over time, as a percentage of sales or revenue, in which the payment amount may increase or decrease according to the volume of sales made or revenue received by the recipient. Sales-based financing also includes a true-up mechanism where the financing is repaid as a fixed payment but provides for a reconciliation process that adjusts the payment to an amount that is a percentage of sales or revenue. Sales-based financing also includes

transactions structured as a sale or assignment of future accounts receivable, future revenue, or future sales.

(7) “Solicit prospective recipients of commercial financing” means, for compensation or gain or with the expectation of compensation or gain, to:

(A) solicit prospective recipients for commercial financing;

(B) offer, broker, directly or indirectly arrange, place, or find commercial financing for a prospective recipient;

(C) obtain commercial financing for a prospective recipient or offer to obtain commercial sales-based financing for a recipient from a provider;

(D) initiate prospective recipients’ interest or inquiry in commercial financing by online marketing, direct response advertising, telemarketing, or other similar contact;

(E) engage in the business of selling information identifying a prospective recipient of commercial financing;

(F) generate or augment information identifying a prospective recipient of commercial financing for other persons; or

(G) refer prospective Vermont recipients to other persons for commercial financing.

(8) “Specific offer” means the specific terms of commercial financing, including price or amount, that is quoted to a recipient, based on information obtained from, or about, the recipient, which, if accepted by a recipient, shall

be binding on the provider, as applicable, subject to any specific requirements stated in such terms.

(b) License requirement.

(1) A provider shall not provide commercial financing to a person in this State, extend a specific offer of commercial financing to a person in this State, or solicit prospective recipients of commercial financing extended by such provider, unless the provider is licensed as a lender under this chapter.

(2) A provider shall not solicit prospective recipients of commercial financing on behalf of a third party or present or extend specific offers of commercial financing on behalf of a third party unless the provider holds a loan solicitation license under this chapter and such third party is licensed as a lender under this chapter or exempt from the licensing requirements under this section pursuant to subdivision (3) or (4) of this subsection.

(3) A lender license, commercial lender license, or loan solicitation license shall not be required under this section for any of the following:

(A) a state agency, political subdivision, or other public instrumentality of a state;

(B) a federal agency or other public instrumentality of the United States;

(C) a depository institution or a financial institution as defined in subdivision 11101(32) of this title; or

(D) a seller of goods or services that finances the sale of such goods or services to a recipient.

(4) This section shall not apply to commercial financing transactions of \$1,000,000.00 or more that are not primarily for personal, family, or household use.

(5) For purposes of this section, subsection 2201(d) of this title shall not apply.

(c) Personal, family, or household use. A commercial financing offered, extended, or otherwise provided primarily for personal, family, or household use, for the purpose of regulation under this chapter, shall also be deemed to be a loan for purposes of this chapter. Any commercial financing deemed to be a loan under this subsection shall be governed by and subject to applicable provisions of this title, including this section, and 9 V.S.A. chapters 4, 59, and 61.

(d) Certain automatic debts prohibited. A provider shall not establish a mechanism for automatically debiting a recipient's deposit account unless the provider holds a validly perfected security interest in the recipient's account under Title 9A, with a first priority against the claims of all other persons.

(e) Confessions of judgment. A commercial financing contract that contains a confession of judgment provision or any similar provision is void and unenforceable.

(f) Choice of law, jurisdiction, and venue; arbitration. Where a provider enters into a contract or agreement with a recipient to provide commercial financing, such contract or agreement shall be governed exclusively by Vermont law, and any cause of action arising under such contract or agreement shall be brought in a court in this State. Any provision in the contract or agreement providing that the law of any other jurisdiction shall govern or mandating that any such action be brought outside this State shall be unenforceable by any party other than the recipient. Where a contract between a provider and recipient contains an arbitration provision, such contract shall not require face-to-face arbitration proceedings outside this State. If the contract requires face-to-face arbitration proceedings outside this State, such provision is unenforceable by any party other than the recipient. The enforceability of the remaining provisions of the arbitration agreement and the method of selecting a forum for the conduct of the arbitration proceedings are as provided in the Vermont Arbitration Act, 12 V.S.A. chapter 192, the Federal Arbitration Act, 9 U.S.C. §§ 1–16, and any applicable rules of arbitration. The provider shall pay any arbitrators’ expenses or fees, or any other expenses or administrative fees incurred in the conduct of any such arbitration proceedings.

(g) Sales-based financing disclosure requirements.

(1) A provider shall provide the following disclosures to a recipient at the time of extending a specific offer of sales-based financing:

(A) The total amount of the commercial financing, and the disbursement amount, if different from the financing amount, after any fees deducted or withheld at disbursement.

(B) The finance charge.

(C) The estimated annual percentage rate, using the words “annual percentage rate” or the abbreviation “APR,” expressed as a yearly rate, inclusive of any fees and finance charges, and determined in accordance with the federal Truth in Lending Act, Regulation Z, 12 C.F.R. § 1026.22, as may be amended, based on the estimated term of repayment and the projected periodic payment amounts, regardless of whether such act or such regulation would require such a calculation. The estimated term of repayment and the projected periodic payment amounts shall be calculated based on a projection of the volume of the recipient’s sales or revenue. The projected volume of sales or revenue may be calculated using the historical method, as described in subdivision (i) of this subdivision (g)(1)(C), or the opt-in method, as described in subdivision (ii) of this subdivision (g)(1)(C).

(i) A provider using the historical method shall use an average historical volume of sales or revenue on which the financing’s payment amounts are based and by which the estimated annual percentage rate is determined. The provider shall fix the historical time period to be used to calculate the average historical volume of sales or revenue and use such period for all disclosure purposes for all sales-based financing products offered by the

provider. The fixed historical time period shall either be the time period immediately preceding the specific offer or, alternatively, a time period consisting of the same number of months with the highest sales or revenue volume within the past 12 months. The fixed historical time period shall be at least one month and shall not exceed 12 months.

(ii) A provider using the opt-in method shall determine the estimated annual percentage rate, the estimated term, and the projected payments using a projected sales or revenue volume that the provider elects for each disclosure. Upon a finding by the Commissioner that the use of projected sales or revenue volume by the provider has resulted in an unacceptable deviation between the estimated and actual annual percentage rates, the Commissioner shall require the provider to use the historical method. The Commissioner may consider unusual and extraordinary circumstances impacting the provider's deviation between estimated and actual annual percentage rates in making such finding.

(D) The total repayment amount, which is the disbursement amount plus the finance charge.

(E) The estimated term is the period of time required for the periodic payments, based on the projected sales volume, to equal the total amount required to be repaid.

(F) The payment amounts, based on the projected sales volume:

(i) for payment amounts that are fixed, the payment amounts and frequency (for example, daily, weekly, or monthly), and, if the payment frequency is other than monthly, the amount of the average projected payments per month; or

(ii) for payment amounts that are variable, a payment schedule or a description of the method used to calculate the amounts and frequency of payments, and the amount of the average projected payments per month.

(G) A description of all other potential fees and charges not included in the finance charge, including draw fees, late payment fees, and returned payment fees.

(H) Were the recipient to elect to pay off or refinance the commercial financing prior to full repayment, the provider shall disclose:

(i) whether the recipient would be required to pay:

(I) any finance charges other than interest accrued since the last payment; if so, disclosure of the percentage of any unpaid portion of the finance charge and maximum dollar amount the recipient could be required to pay; and

(II) any additional fees not already included in the finance charge; and

(ii) a description of collateral requirements or security interests, if any.

(2) The provider shall obtain the recipient's signature on the disclosures required by this subsection before finalizing the application for the sales-based financing.

(3) A provider shall not provide sales-based financing to a recipient without first providing the disclosures required by this subsection and obtaining the recipient's signature on such disclosures.

(4) The Commissioner may prescribe the format for the disclosures required by this subsection.

(h) Factoring transaction disclosure requirements.

(1) A provider shall provide the following disclosures to a recipient at the time of extending a specific offer for a factoring transaction:

(A) The amount of the receivables purchase price paid to the recipient and, if different from the purchase price, the amount disbursed to the recipient after any fees deducted or withheld at disbursement.

(B) The finance charge.

(C) The estimated annual percentage rate, using the words "annual percentage rate" or the abbreviation "APR," calculated according to the federal Truth in Lending Act, Regulation Z, 12 C.F.R. § 1026 Appendix J, as a "single advance, single payment transaction," regardless of whether such act or such regulation would require such a calculation. To calculate the estimated annual percentage rate, the purchase amount is considered the financing amount, the purchase amount minus the finance charge is considered the payment amount,

and the term is established by the payment due date of the receivables. As an alternate method of establishing the term, the provider may estimate the term for a factoring transaction as the average payment period, based on its historical data over a period not to exceed the previous 12 months, concerning payment invoices paid by the party owing the accounts receivable in question.

(D) The total payment amount, which is the purchase amount plus the finance charge.

(E) A description of all other potential fees and charges that can be avoided by the recipient.

(F) A description of the receivables purchased and any additional collateral requirements or security interests.

(2) The provider shall obtain the recipient's signature on the disclosures required by this subsection before finalizing the application for the factoring transaction.

(3) A provider shall not provide commercial financing to a recipient in a factoring transaction without first providing the disclosures required by this subsection and obtaining the recipient's signature on such disclosures.

(4) The Commissioner may prescribe the format for the disclosures required by this subsection.

(i) Disclosures required if recipient required to pay off existing commercial financing as condition. If as a condition of obtaining commercial financing the

provider requires the recipient to pay off the balance of existing commercial financing from the same provider, the provider shall disclose to the recipient:

(1) The amount of the new commercial financing used to pay off the portion of the existing commercial financing that consists of prepayment charges required to be paid and any unpaid interest expense that was not forgiven at the time of renewal. For financing for which the total repayment amount is calculated as a fixed amount, the prepayment charge is equal to the original finance charge multiplied by the amount of the renewal used to pay off existing financing as a percentage of the total repayment amount, minus any portion of the total repayment amount forgiven by the provider at the time of prepayment.

(2) If the disbursement amount will be reduced to pay down any unpaid portion of the outstanding balance, the actual dollar amount by which such disbursement amount will be reduced.

(j) Rulemaking. The Commissioner is authorized to adopt rules the Commissioner determines are consistent with the purposes of this section, or appropriate for the effective administration of this section, including:

(1) Rules in connection with the calculation or determination of any metric required to be disclosed to a recipient.

(2) Rules necessary to develop and prescribe disclosure formatting to be used by providers that allows for recipients to easily compare financing options in a clear and conspicuous manner. Such rules may include the designation

and method for disclosing the information required in this section, or approving adequate forms and methods already used by providers.

(3) Rules that define the terms used in this section if the Commissioner determines such rules are necessary and appropriate to interpret and implement the provisions of this section.

(4) Rules necessary for the enforcement of this section.

Sec. 61. COMMERCIAL FINANCING RULEMAKING

The Commissioner may initiate a rulemaking concerning the implementation and enforcement of commercial financing transactions consistent with the requirements established in Secs. 59 and 60 of this act. However, such rules shall not take effect until on or after July 1, 2027.

* * * Effective Dates; Application * * *

Sec. 62. EFFECTIVE DATES; APPLICATION

This act shall take effect on July 1, 2026, except that Secs. 59 and 60, concerning commercial financing, shall take effect on July 1, 2027, and shall apply to commercial financing contracts entered into or modified, amended, or restructured on or after July 1, 2027.

Date Governor signed bill: June 16, 2026