

1 H.648

2 Introduced by Representatives Marcotte of Coventry, Graning of Jericho,
3 Bosch of Clarendon, Carris Duncan of Whitingham, Duke of
4 Burlington, Micklus of Milton, Olson of Starksboro, Priestley
5 of Bradford, and White of Bethel

6 Referred to Committee on

7 Date:

8 Subject: Banking; financial services; financial institutions; insurance;
9 securities

10 Statement of purpose of bill as introduced: This bill proposes to make various
11 amendments to Vermont's banking, financial services, financial institutions,
12 insurance, and securities laws.

13 An act relating to banking, insurance, and securities

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

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

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

17 § 2102. APPLICATION FOR LICENSE

18 (a) Application for a license or registration shall be in writing, under oath,
19 and in the form prescribed by the Commissioner and shall contain the legal
20 name, any fictitious name or trade name, and the address of the residence and

1 place of business of the applicant; if the applicant is a ~~partnership~~ corporation,
2 limited liability company, partnership, or other entity, the name and title of
3 each key individual and person in control of the applicant; the county and
4 municipality with street and number, if any, where the business is to be
5 conducted; and such further information as the Commissioner may require.

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

10 * * *

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

14 * * *

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

16 § 2103. APPROVAL OF APPLICATION AND ISSUANCE OF LICENSE

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

20 (1)(A) The financial condition and responsibility, financial and business
21 experience, competence, character, and general fitness of the applicant

1 command the confidence of the community; ~~and~~ warrant belief that the
2 business will be operated honestly, fairly, and efficiently pursuant to the
3 applicable chapter of this title; and otherwise indicate that it is in the public
4 interest to permit the applicant to provide services in this State. If the applicant
5 is a corporation, limited liability company, partnership, or ~~association~~ other
6 entity, such findings are required with respect to each key individual and each
7 person in control of the applicant.

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

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

14 (ii) current outstanding tax liens or other government liens and
15 filings;

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

17 (iv) a pattern of seriously delinquent accounts within the past three
18 years.

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

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

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

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

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

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

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

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

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

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

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

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

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

10 * * *

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

12 § 2107. CHANGE OF CONTROL

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

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

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

13 (d) The Commissioner shall approve or deny a request for change of
14 control not later than 60 days after a complete request is filed and notify the
15 licensee of the decision in a record. The Commissioner for good cause may
16 extend the review period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (f) Notwithstanding any other provision of this title to the contrary, the
6 ~~registration~~ license of a consumer litigation funding company that fails to pay
7 the annual renewal fee or fails to satisfy all of the minimum ~~registration~~ license
8 renewal requirements by December 1 shall automatically expire on December
9 31.

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

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

14 § 2110. REVOCATION, SUSPENSION, TERMINATION, OR

15 NONRENEWAL OF LICENSE; CEASE AND DESIST ORDERS

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

19 * * *

1 or irrevocable letter of credit issued and confirmed by a financial institution
2 authorized by law to transact business in Vermont that is equal to double the
3 amount of the company's largest funded amount in Vermont in the prior three
4 calendar years or \$50,000.00, whichever is greater.

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

6 § 2260. ANNUAL REPORTS

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

14 * * *

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

16 § 2503. DEFINITIONS

17 As used in this chapter:

18 * * *

19 (8) "Eligible rating" ~~shall mean~~ means a credit rating of any of the three
20 highest rating categories provided by an eligible rating service, whereby each
21 category may include rating category modifiers such as "plus" or "minus" for

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

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

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

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

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

20 (11) “In this State” means at a physical location within Vermont for a
21 transaction requested in person. For a transaction requested electronically or

1 by phone, the provider of money transmission may determine if the person
2 requesting the transaction is “in this State” by relying on other information
3 provided by the person regarding the location of the individual’s residential
4 address or a business entity’s principal place of business or other physical
5 address location, and any records associated with the person that the provider
6 of money transmission may have to indicate such location, including an
7 address associated with an account.

8 ~~(11)~~(12) “Licensee” means a person licensed under this chapter.

9 ~~(12)~~(13) “Limited station” means private premises where a check casher
10 is authorized to engage in check cashing for not more than two days of each
11 week solely for the employees of the particular employer or group of
12 employers specified in the check casher license application.

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

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

17 ~~(15)~~(16) “Money” means a medium of exchange that is issued by the
18 United States or a foreign government. The term includes a monetary unit of
19 account established by an intergovernmental organization or by agreement
20 between two or more governments.

1 ~~(16)~~(17) “Money services” means money transmission, check cashing,
2 or currency exchange.

3 ~~(17)~~(18)(A) “Money transmission” means any of the following:

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

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

7 ~~or~~

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

10 (iv) virtual-currency business activity.

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

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

15 ~~(18)~~(19) “Money transmission kiosk” means an automated, unstaffed
16 electronic machine ~~that allows users to engage in~~ through which money
17 transmission, ~~including any machine that is capable of accepting or dispensing~~
18 ~~cash in exchange for virtual currency~~ is offered, facilitated, or engaged in, in
19 whole or in part, directly or indirectly. The term includes any virtual-currency
20 kiosk. The term does not include consumer cell phones and other similar
21 personal devices of consumers.

1 ~~(19)~~(20)(A) “Outstanding money transmission obligations” shall be
2 established and extinguished in accordance with applicable state law and ~~shall~~
3 ~~mean~~ means:

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

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

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

17 ~~(20)~~(21) “Payment instrument” means a written or electronic check,
18 draft, money order, traveler’s check, or other written or electronic instrument
19 for the transmission or payment of money or monetary value, whether or not
20 negotiable. The term does not include stored value or any instrument that is:

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

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

7 ~~(21)~~(22) “Payroll processing services” means receiving money for
8 transmission pursuant to a contract with a person to deliver wages or salaries,
9 make payment of payroll taxes to state and federal agencies, make payments
10 relating to employee benefit plans, or make distributions of other authorized
11 deductions from wages or salaries. The term does not include an employer
12 performing payroll processing services on its own behalf or on behalf of its
13 affiliate.

14 ~~(22)~~(23) “Prevailing market value” means the value to buy or sell a
15 particular virtual currency, as applicable, quoted on a virtual currency
16 exchange operated by a licensee based in the United States, with sufficient
17 volume to reflect the prevailing market price of such virtual currency.

18 ~~(23)~~(24) “Receiving money for transmission” or “money received for
19 transmission” means receiving money or monetary value in the United States
20 for transmission within or outside the United States by electronic or other
21 means.

1 ~~(24)~~(25) “Stored value” means monetary value representing a claim
2 against the issuer evidenced by an electronic or digital record, and that is
3 intended and accepted for use as a means of redemption for money or
4 monetary value, or payment for goods or services. The term includes “prepaid
5 access” as defined by 31 C.F.R. § 1010.100, as may be amended.

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

10 ~~(25)~~(26) “Tangible net worth” means the aggregate assets of a licensee
11 excluding all intangible assets, less liabilities, as determined in accordance
12 with ~~United States~~ U.S. generally accepted accounting principles.

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

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

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

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

1 ~~(26)~~(28) “U.S. dollar equivalent of virtual currency” means the
2 prevailing market value of a particular virtual currency in United States dollars
3 for a particular date or period specified in this chapter.

4 ~~(27)~~(29)(A) “Virtual currency” means a digital representation of value
5 that:

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

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

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

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

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

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

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

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

5 ~~(28)~~(30) “Virtual-currency administration” means:

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

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

12 ~~(29)~~(31) “Virtual-currency business activity” means:

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

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

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

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

5 ~~(30)~~(32) “Virtual-currency control-services vendor” means a person that
6 has control of virtual currency solely under an agreement with a person that, on
7 behalf of another person, assumes control of virtual currency.

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

14 ~~(31)~~(34) “Virtual-currency kiosk operator” means a person that offers,
15 facilitates, or engages in, in whole or in part, directly or indirectly, virtual-
16 currency business activity via a ~~money transmission~~ virtual-currency kiosk
17 located in this State or a person that owns, operates, or manages a ~~money~~
18 ~~transmission~~ virtual-currency kiosk located in this State ~~through which virtual-~~
19 ~~currency business activity is offered.~~

20 ~~(32)~~(35) “Virtual-currency storage” means:

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

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

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

8 § 2507. MONEY TRANSMISSION KIOSK REGISTRATION

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

16 (b) To apply for registration and approval to activate a money transmission
17 kiosk, a licensee shall submit an application, using a form prescribed by the
18 Commissioner, that includes the ownership and location of the money
19 transmission kiosk, an affidavit of all businesses and services to be offered at
20 the kiosk, the written agreement between the licensee and the owner of the
21 money transmission kiosk if different persons, and the text of each disclosure

1 required pursuant to subsection (c) of this section along with a description of
2 the form, timing, and location for each disclosure.

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

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

13 * * *

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

15 § 2519. ACTIVITIES OF CHECK CASHERS AND CURRENCY

16 EXCHANGES

17 (a) Check cashing.

18 (1) A licensee, in every location conducting business under a license
19 issued pursuant to this chapter, shall conspicuously post and at all times
20 display a notice stating all fees charged. A licensee shall file with the

1 Commissioner a statement of the fees charged at every location licensed for
2 services offered there.

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

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

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

13 (5) A licensee shall issue a receipt for each check cashing transaction
14 upon request. The receipt shall include, among other matters the licensee may
15 desire to include, the amount of the payment instrument and the total fee
16 charged.

17 (6) A licensee shall not impose any fee or other charge for bad checks
18 other than as expressly permitted under the provisions of 9 V.S.A. §§ 2311 and
19 2312.

20 (7) Within 10 business days after being advised by the payor financial
21 institution or credit union that a payment instrument has been altered, forged,

1 stolen, obtained through fraudulent or illegal means, or negotiated without
2 proper legal authority, or represents the proceeds of illegal activity, the
3 licensee shall notify the police department in the city or town where the
4 payment instrument was cashed. If a payment instrument is returned to the
5 licensee by the payor financial institution or credit union for any of the
6 aforementioned reasons, the licensee may not release or destroy the payment
7 instrument without the consent of the city or town police department, or other
8 investigative law enforcement authority.

9 * * *

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

11 § 2573. CONDITIONS PRECEDENT TO ENGAGING IN VIRTUAL-
12 CURRENCY BUSINESS ACTIVITY

13 * * *

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

16 * * *

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

18 § 2571. DEFINITIONS

19 As used in this subchapter:

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

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

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

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

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

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

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

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

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

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

21 ~~(7)~~(6) “New customer” means a consumer who:

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

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

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

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

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

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

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

14 Sec. 15. REPEAL

15 8 V.S.A. § 10101 (application of consumer protection chapter) is repealed.

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

17 § 10201. STATEMENT OF POLICY ON FINANCIAL PRIVACY

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

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

2 § 10202. DEFINITIONS

3 As used in this subchapter:

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

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

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

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

15 (2) “Credit reporting agency” means any person who, for monetary fees,
16 dues, or on a cooperative nonprofit basis, regularly engages in whole or in part
17 in the practice of assembling or evaluating consumer credit information or
18 other information on consumers for the purpose of reporting to third parties on
19 the credit rating or creditworthiness of any consumer.

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

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

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

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

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

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

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

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

20 (5) ~~“Financial institution” means a financial institution as defined in~~
21 ~~subdivision 11101(32) of this title, and a credit union, financial institution~~

1 ~~subsidiary, licensed lender, mortgage broker, or sales finance company~~
2 ~~organized or regulated under the laws of this State, the United States, or any~~
3 ~~other state or territory.~~

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

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

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

16 § 10203. DISCLOSURE OF FINANCIAL RECORDS PROHIBITED

17 Except as otherwise expressly provided in this subchapter, a ~~financial~~
18 ~~institution~~ regulated entity, its officers, employees, agents, and directors shall
19 not disclose to any person any financial information relating to a customer.
20 ~~Financial institutions~~ Regulated entities shall adopt reasonable procedures to
21 ensure compliance with this subchapter.

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

4 (20) Disclosure required by order of court.

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

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

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

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

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

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

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

13 § 10205. PENALTIES

14 In addition to the authority provided ~~under sections 11601, 11602, and~~
15 ~~11603~~ of in this title, the Commissioner may impose an administrative penalty
16 of not more than \$1,000.00 for each violation of this subchapter resulting from
17 willful conduct or from a failure by a ~~financial institution~~ regulated entity to
18 provide reasonable supervision of its employees to prevent violations of this
19 subchapter.

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

21 § 10206. LEAD SOLICITATIONS

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

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

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

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

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

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

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

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

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

13 (f) A ~~financial institution~~ regulated entity that has had its name, trade name,
14 or trademark misrepresented in a solicitation in violation of this section may, in
15 addition to any other remedy provided by law, bring an action in the Civil
16 Division of the Superior Court in the county of its primary place of business
17 or, if its primary place of business is located outside Vermont, in ~~Washington~~
18 the Superior Court of Washington County. The court shall award damages for
19 each violation in the amount of actual damages demonstrated by the ~~financial~~
20 ~~institution~~ regulated entity or \$5,000.00, whichever is greater. In any
21 successful action for injunctive relief or for damages, the court shall award the

1 ~~financial institution~~ regulated entity reasonable attorney's fees and costs,
2 including court costs.

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

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

8 Sec. 22. 8 V.S.A. § 10301 is amended to read:

9 § 10301. COMMUNITY REINVESTMENT REPORTS

10 Every ~~financial institution~~ regulated entity subject to the Federal
11 Community Reinvestment Act of 1977 (~~12 U.S.C. § 2901~~), 12 U.S.C. Chapter
12 30, as may be amended, shall provide to the Commissioner a copy of any
13 report issued with respect to such ~~financial institution~~ regulated entity under
14 that ~~act~~ Act. If the ~~financial institution~~ regulated entity is not a Vermont
15 ~~financial institution~~ regulated entity, then the requirements of this section shall
16 only apply to reports that relate to its business in this State. The Commissioner
17 shall make such reports available for public inspection and copying.

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

19 § 10402. LENDING REPORTS, DISCLOSURES, AND STANDARDS

20 ~~An entity subject to this chapter~~ Any person licensed, chartered, or
21 otherwise authorized, or required to be licensed, chartered, or otherwise

1 authorized, under Part 2, 4, or 5 of this title shall be subject to and comply with
2 the provisions of 9 V.S.A. chapter 4 (interest).

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

4 § 10403. PROHIBITION ON DISCRIMINATION BASED ON SEX,
5 MARITAL STATUS, RACE, COLOR, RELIGION, NATIONAL
6 ORIGIN, AGE, SEXUAL ORIENTATION, GENDER IDENTITY,
7 OR DISABILITY

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

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

15 (c) Definitions. As used in this section:

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

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

5 (3) “Application” means an oral or written request for an extension of
6 credit that is made in accordance with procedures established by a ~~financial~~
7 lending institution for the type of credit requested. The term does not include
8 the use of an account or line of credit to obtain an amount of credit that is
9 within a previously established credit limit. A completed application means an
10 application in connection with which a ~~financial~~ lending institution has
11 received all the information that the ~~financial~~ lending institution regularly
12 obtains and considers in evaluating applications for the amount and type of
13 credit requested, including credit reports, any additional information requested
14 from the applicant, and any approvals or reports by governmental agencies or
15 other persons that are necessary to guarantee, insure, or provide security for the
16 credit or collateral. The ~~financial~~ lending institution shall exercise reasonable
17 diligence in obtaining such information.

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

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

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

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

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

11 (d) Notification requirements.

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

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

18 (3) For commercial credit only, a statement of reasons meets the
19 requirements of this section only if it contains the specific reasons for the
20 adverse action taken and cites the specific documentation or business judgment
21 that supports the adverse decision on the application. Consumer credit shall be

1 governed by the Equal Credit Opportunity Act (~~15 U.S.C. § 1691 et seq.~~), 15
2 U.S.C. § 1691 et seq., and regulations adopted pursuant to the Act.

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

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

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

12 § 10404. HOME LOAN ESCROW ACCOUNTS

13 * * *

14 (e) The lender shall maintain escrow account funds in ~~a federally an~~
15 insured depository institution, as defined in the Federal Deposit Insurance Act,
16 12 U.S.C. § 1813, as may be amended, or as defined under the Federal Credit
17 Union Act, 12 U.S.C. § 1781, as may be amended.

18 * * *

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

20 § 10405. DEBT PROTECTION AGREEMENTS

21 * * *

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

9 (2) All assignments, sales, or transfers of a loan agreement or motor
10 vehicle or retail installment contract to which a debt protection agreement
11 relates and the related debt protection agreement shall be to a financial
12 institution ~~as defined in subdivision 11101(32) of this title~~, a credit union, or
13 an entity licensed under subdivision 2201(a)(1) or (4) of this title to engage in
14 lending or sales financing.

15 * * *

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

17 § 10504. BASIC BANKING RULES

18 The Commissioner may adopt rules to require Vermont financial
19 institutions ~~with their principal place of business in this State~~ to offer basic
20 checking and savings accounts if the Commissioner finds a material
21 deterioration in the availability and cost of basic checking and savings account

1 services in the results of any two consecutive surveys. ~~The rule~~ Any rules
2 adopted by the Commissioner under this section shall ensure that any required
3 basic banking will not impair the safety and soundness of any affected
4 Vermont financial institution and that any such rules shall not adversely affect
5 other consumers of banking services.

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

7 § 10505. RETURNED CHECK CHARGES

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

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

13 § 10601. APPLICATION

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

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

19 § 10701. DEFINITIONS

20 As used in this subchapter: the term

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

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

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

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

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

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

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

15 § 10702. COUNSELING

16 Prior to accepting an application for a reverse mortgage loan, a ~~financial~~
17 ~~institution~~ person shall refer every borrower to counseling from an
18 organization that is a housing counseling agency approved by the U.S.
19 Department of Housing and Urban Development and shall receive certification
20 from the counselor that the borrower has received in-person, face-to-face
21 counseling. However, if the borrower cannot or chooses not to travel to a

1 counselor and cannot be visited by a counselor in their home, telephone
2 counseling shall be provided by counseling agencies that are authorized by the
3 Department of ~~Financial Regulation~~. The certificate shall be signed by the
4 borrower and the counselor and include the date of counseling; the name,
5 address, and telephone number of both the borrower and the organization
6 providing counseling; and shall be maintained by the holder of the reverse
7 mortgage throughout the term of the reverse mortgage loan.

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

9 § 10703. ANNUITIES

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

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

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

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

21 § 10704. LIMITATION ON REVERSE MORTGAGE LOAN PROGRAMS

1 If a governing body meets less than monthly, the governing body shall appoint
2 an executive committee that meets monthly during the months in which the
3 governing body does not meet. The minutes of executive committee meetings
4 shall be ratified at the governing body's next meeting ~~of the governing body.~~

5 * * *

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

7 § 14301. LOAN AUTHORITY

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

12 (b) Written loan policy.

13 (1) A financial institution's governing body shall establish a written
14 loan, credit, and derivative transaction policy, as applicable to the activities of
15 the financial institution, which shall be reviewed and ratified at least annually,
16 that addresses at a minimum, the following:

17 (A) loan portfolio mix and diversification standards and, if
18 applicable, derivative transaction portfolio mix and diversification standards;

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

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

3 (D) documentation and approval requirements to monitor compliance
4 with lending policies; and

5 (E) the circumstances under which a loan shall be considered for
6 approval by the financial institution's governing body.

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

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

13 (d) Limitations. A Vermont financial institution ~~may~~ shall not make loans,
14 derivative transactions, or extensions of credit outstanding at one time to a
15 borrower in excess of 20 percent of its capital or to a corporate group in excess
16 of 50 percent of its capital. As used in this subsection, "corporate group"
17 means a person and all persons in whom it owns, controls, or holds the power
18 to vote 50 percent or more of any class of voting securities. Total loans,
19 ~~derivative transactions, or other extensions of credit in excess of 10 percent of~~
20 ~~capital shall be approved by a majority of the governing body or the executive~~
21 ~~committee of that institution or organization.~~

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

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

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

14 (i) The expected source of repayment for each obligation is the
15 same for each borrower and neither borrower has another source of income
16 from which the loan, together with the borrower's other obligations, may be
17 fully repaid. An employer shall not be treated as a source of repayment under
18 this subdivision (i) with respect to wages and salaries paid to an employee,
19 unless the situation in subdivision (ii) of this subdivision (d)(1)(B) exists.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~(i) loaned to the corporation or limited liability company;~~
2 ~~(ii) used for the acquisition from the corporation or limited liability~~
3 ~~company of any equity interest in the corporation or company; and~~
4 ~~(iii) transferred to the corporation or limited liability company~~
5 ~~without fair and adequate consideration; provided, however, that the discharge~~
6 ~~of an equivalent amount of debt previously incurred in good faith for value~~
7 ~~shall be deemed fair and adequate consideration.~~

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

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

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

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

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

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

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

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

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

17 (G) ~~Indebtedness~~ indebtedness secured to the extent thereof by
18 savings deposits or certificates of deposit of solvent financial institutions up to
19 the amount insured by the Federal Deposit Insurance Corporation, and duly
20 assigned-;

1 (H) ~~Any~~ any portion of any indebtedness that the U.S. government,
2 or an agency or instrumentality of the United States, unconditionally agreed to
3 purchase or has unconditionally guaranteed as to payment of both principal and
4 interest, including loans insured or guaranteed under the National Housing Act,
5 12 U.S.C. Chapter 13, or the Servicemen’s Readjustment Act of 1944, 38
6 U.S.C. Chapter 37, as may be amended;

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

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

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

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

18 § 30101. DEFINITIONS

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

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

3 * * *

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

5 § 31304. MEETINGS OF GOVERNING BODY

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

20 * * *

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

2 § 32204. JOINT DEPOSITS

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

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

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

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

14 § 32301. LOAN AUTHORITY

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

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

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

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

8 (A) loan portfolio mix and diversification standards;

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

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

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

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

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

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

4 * * *

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

7 * * *

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

14 * * *

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

16 § 34101. MERGERS

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

20 * * *

1 (d) Vote of members. The plan of merger, as approved by the
2 Commissioner, shall be submitted to the members of ~~each participating~~ the
3 merging credit union for ~~their~~ approval at such credit union's annual meeting
4 or at a special meeting called for that purpose in the following manner. Unless
5 a greater percentage is required by the organizational documents of ~~either~~ the
6 merging credit union, the plan of merger or assumption must be approved by a
7 majority vote of the members present at a meeting called for this purpose. The
8 vote constitutes the adoption of the organizational documents of the continuing
9 credit union, including amendments, contained in the merger agreement.

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

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

18 (2) Upon receipt of the items in subdivision (1) of this subsection and
19 evidence that the participating credit unions have complied with all applicable
20 State and federal law, the Commissioner shall issue to the continuing credit
21 union a certificate specifying the name of each participating credit union and

1 the name of the continuing credit union. The continuing credit union shall file
2 a copy of the certificate with the Secretary of State for recording. This
3 certificate is conclusive evidence of the merger and of the correctness of all
4 proceedings relating to the merger in all courts and places. The certificate may
5 be filed in the appropriate land records offices to evidence the new name in
6 which property of each participating credit union is to be held.

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

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

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

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

3 (h) Authority for expedited mergers. Notwithstanding any other provision
4 of law to the contrary or any organizational document of any participating
5 credit union, following approval of the plan of merger by a majority vote of the
6 governing body of each participating credit union and receipt by the
7 Commissioner of certified copies of the authorizing resolutions adopted by the
8 governing body of each participating credit union, the Commissioner may
9 waive any requirement of subsection (b) of this section, may waive the
10 requirements of subsection (d) of this section, and may order that the merger
11 become effective immediately if the Commissioner believes that the action is
12 necessary for the protection of the members or the public.

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

14 § 201. DEFINITIONS

15 As used in this subchapter:

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

18 (A) cash;

19 (B) wired funds or electronic transfer;

20 (C) certified check;

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

1 (E) cashier's check, teller's check, or any transfer of funds by check
2 or otherwise that is fully collected and unconditionally available to the
3 settlement agent;

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

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

10 * * *

11 * * * Insurance * * *

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

13 § 3441. FORMATION OF A MUTUAL INSURANCE HOLDING
14 COMPANY

15 * * *

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

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

21 § 3561. ANNUAL STATEMENT AND QUARTERLY STATEMENTS

1 (a) Each domestic, foreign, and alien insurance company doing business in
2 this ~~state~~ State shall ~~annually submit to the Commissioner a statement of its~~
3 ~~financial condition, verified by oath of two of its executive officers, on or~~
4 ~~before March 1 of each year, file a copy of its annual statement convention~~
5 ~~blank, along with any additional filings as prescribed by the Commissioner for~~
6 ~~the preceding year.~~ The statement shall be prepared in accordance with the
7 ~~National Association of Insurance Commissioners' NAIC's~~ NAIC's Instructions
8 Handbook and Accounting Practices and Procedures Manual, ~~and~~ shall include
9 ~~the signed jurat page verified by oath of two of its executive officers and the~~
10 ~~actuarial certification, and shall~~ be in such general form and context, as
11 approved by, and shall contain any other information required by, the ~~National~~
12 ~~Association of Insurance Commissioners~~ NAIC with any useful or necessary
13 modifications or adaptations thereof required or approved or accepted by the
14 Commissioner for the type of insurance and kinds of insurers to be reported
15 upon, and as supplemented by additional information required by the
16 Commissioner. The statement of an alien insurer shall relate only to the
17 insurer's transactions and affairs in the United States unless the Commissioner
18 requires otherwise. A foreign or alien company, upon withdrawing from the
19 State of Vermont shall pay to the Commissioner \$25.00 for the filing of its
20 final financial statement.

1 (b) Each year, in a form and manner prescribed by the Commissioner, each
2 domestic, foreign, and alien insurer doing business in this State shall file with
3 the NAIC a copy of the quarterly statements exhibiting its condition and affairs
4 for the period beginning on January 1 of the current calendar year through and
5 including the last day of the quarter for which the report is being made. The
6 first quarterly statement shall be filed on or before May 15. The second
7 quarterly statement shall be filed on or before August 15. The third quarterly
8 statement shall be filed on or before November 15. If any of the dates
9 specified in this subsection falls on a day other than a business day, then the
10 quarterly statement is due on or before the first business day preceding such
11 date. The information filed with the NAIC shall include a jurat page. A copy
12 of any amendments and addenda to the quarterly statement filings
13 subsequently filed with the Department shall also be filed with the NAIC.

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

17 (d)(1) At the direction of the Commissioner, each domestic, foreign, and
18 alien insurance company doing business in this State shall annually submit to
19 the Commissioner, in a manner and on forms approved by the Commissioner, a
20 statement of its market conduct performance for the purpose of permitting the
21 participation of this State in the Market Conduct Annual Statement program of

1 the ~~National Association of Insurance Commissioners~~ NAIC. The statement
2 shall be prepared in accordance with the Market Conduct Annual Statement
3 instructions published by the ~~National Association of Insurance~~
4 ~~Commissioners~~ NAIC, with any useful or necessary modifications or
5 adaptations thereof required or approved or accepted by the Commissioner for
6 the type of insurance and kinds of insurers to be reported upon, and as
7 supplemented by additional information required by the Commissioner.

8 (2) Subject to section 22 of this title, all market conduct annual
9 statements and other information filed pursuant to subdivision (1) of this
10 subsection, all records, and other information of investigations conducted by
11 the Department under this title, whether such statements, records, or
12 information are in the possession of another regulatory or law enforcement
13 agency, the ~~National Association of Insurance Commissioners~~ NAIC, or any
14 person, shall be confidential and privileged, shall not be made public, shall not
15 be subject to subpoena, and shall not be subject to discovery or introduction
16 into evidence in any private civil action.

17 ~~(e)~~(e) The Commissioner shall adopt by rule the Medical Professional
18 Liability Closed Claim Reporting Model Law of the ~~National Association of~~
19 ~~Insurance Commissioners~~ NAIC, as may be amended ~~from time to time~~, or in
20 the Commissioner's discretion a substantially similar rule. Subject to section
21 22 of this title, information that identifies, directly or indirectly, the closed

1 claims of a health care facility or a health care provider shall be confidential
2 and privileged, shall not be made public, shall not be subject to subpoena, and
3 shall not be subject to discovery or introduction into evidence in any private
4 civil action.

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

6 § 3811. DEPENDENTS' COVERAGE

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

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

1 premium is to be derived from funds contributed by the employees or
2 members, all eligible employees or members, excluding any as to whose
3 family members evidence of insurability is not satisfactory to the insurer, must
4 be insured with respect to their spouses and children.

5 * * *

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

7 § 4724. UNFAIR METHODS OF COMPETITION OR UNFAIR OR
8 DECEPTIVE ACTS OR PRACTICES DEFINED

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

11 * * *

12 (7) Unfair discrimination; arbitrary underwriting action.

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

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

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

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

7 * * *

8 * * * Securities * * *

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

10 § 5202. EXEMPT TRANSACTIONS

11 The following transactions are exempt from the requirements of sections
12 ~~5301 through 5306~~ 5301–5306 and 5504 of this chapter:

13 * * *

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

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

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

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

2 § 5305. SECURITIES REGISTRATION FILINGS

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

6 (b) A person filing a registration statement shall pay a filing fee of \$600.00.

7 A person filing a registration statement in connection with the New England
8 Crowdfunding Initiative shall be exempt from the filing fee requirement.

9 ~~Open-end investment companies shall pay a registration fee and an annual~~
10 ~~renewal fee for each portfolio as long as the registration of those securities~~
11 ~~remains in effect.~~ The fee is nonrefundable.

12 * * *

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

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

16 § 5602. INVESTIGATIONS AND SUBPOENAS

17 * * *

18 (f) Unless presented by an emergency or exigent circumstances, the
19 Commissioner shall give notice to the Attorney General and U.S. Attorney not
20 less than five business days before applying to the ~~Washington County~~
21 Superior Court of Washington County to compel the testimony, the filing of

1 the statement, the production of the record, or the giving of other evidence
2 under subsection (e) of this section. In the case of an emergency or exigent
3 circumstances, the Commissioner shall notify the Attorney General and U.S.
4 Attorney as soon as possible before applying to the ~~Washington County~~
5 Superior Court of Washington County.

6 * * *

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

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

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

18 (e) For purposes of determining any sanction to be imposed under
19 subsections ~~(a) through (d)~~ (a)–(d) of this section, the Commissioner shall
20 consider among other factors, ~~the frequency and persistence of the conduct~~
21 ~~constituting a violation of this chapter or a rule or order of the Commissioner~~

1 ~~under this chapter and the number of persons adversely affected by the~~
2 ~~conduct, and the resources of the person committing the violation;~~

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

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

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

10 (4) the length of time the violation existed;

11 (5) the deterrent effect of the penalty;

12 (6) the economic resources of the respondent;

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

14 (8) any other aggravating or mitigating circumstances.

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

16 § 5616. VERMONT FINANCIAL SERVICES EDUCATION AND VICTIM
17 RESTITUTION SPECIAL FUND

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

19 (1) funds for the purposes specified in subsection 5601(d) of this title;

20 (2) restitution assistance to victims of securities violations who:

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

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

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

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

10 (b) Definitions. As used in this section:

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

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

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

5 (3)(4) “Fund” means the Vermont Financial Services Education and
6 Victim Restitution Special Fund created by this section.

7 (4)(5) “Securities violation” means a violation of this chapter and any
8 related administrative rules.

9 (5)(6) “Victim” means a person who was awarded restitution in a final
10 order.

11 (6)(7) “Vulnerable ~~person~~ adult” means:

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

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

15 (c) Eligibility.

16 (1) ~~A natural person who was a resident of Vermont at the time of the~~
17 ~~alleged fraud is eligible for restitution assistance~~ The claimant shall be limited
18 to the victim or, in the case of a deceased victim, the deceased victim’s
19 surviving spouse or dependent child.

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

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

3 (B) to more than one claimant per victim;

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

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

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

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

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

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

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

14 or

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

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

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

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

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

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

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

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

13 (B) each of the items listed in 9 V.S.A. § 2430(10)(A)(i)–(vii)
14 pertaining to the claimant or victim; and

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

19 ~~(f)~~(e) Vermont Financial Services Education and Victim Restitution
20 Special Fund. The Vermont Financial Services Education and Victim
21 Restitution Special Fund, pursuant to 32 V.S.A. chapter 7, subchapter 5, is

1 created to provide funds for the purposes specified in this section, in subsection
2 5601(d) of this title, and in section 5617 of this title. All monies received by
3 the State for use in financial services education initiatives pursuant to
4 subsection 5601(d) of this title, in providing uncompensated victims restitution
5 pursuant to this section, or in providing whistleblower awards pursuant to
6 section 5617 of this title shall be deposited into the Fund. The Commissioner
7 may direct a party to deposit a sum not to exceed 15 percent of the total
8 settlement amount into the Fund in conjunction with settling an enforcement
9 matter within the Department's jurisdiction, as described in 8 V.S.A. § 11(a).
10 Interest earned on the Fund shall be retained in the Fund.

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

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

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

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

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

4 (i) Forfeiture of restitution award.

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

7 (2) A person found by the Commissioner or a court have engaged in
8 dishonesty, forgery, fraud, or deceit in connection with an application for
9 restitution assistance shall forfeit to the Department any amount paid in a
10 restitution assistance award and may be subject to penalties and other remedies
11 available pursuant to 9 V.S.A. § 5508, 5603, or 5604 or other law.

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

14 * * * Miscellaneous Housekeeping * * *

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

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

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

21 * * *

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

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

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

17 Sec. 56. REPEALS

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

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

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

4 § 3317. INSURANCE REGULATORY AND SUPERVISION FUND

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

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

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

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

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

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

5 § 5411. POSTREGISTRATION REQUIREMENTS

6 (a) Subject to ~~15 U.S.C. § 78o(h)~~ 15 U.S.C. § 78o(i) or ~~15 U.S.C. § 80b-22~~
7 15 U.S.C. § 80b-18a, a rule adopted or order issued under this chapter may
8 establish minimum financial requirements for broker-dealers registered or
9 required to be registered under this chapter and investment advisers registered
10 or required to be registered under this chapter.

11 (b) Subject to ~~15 U.S.C. § 78o(h)~~ 15 U.S.C. § 78o(i) or ~~15 U.S.C. § 80b-22~~
12 15 U.S.C. § 80b-18a, a broker-dealer registered or required to be registered
13 under this chapter and an investment adviser registered or required to be
14 registered under this chapter shall file such financial reports as are required by
15 a rule adopted or order issued under this chapter. If the information contained
16 in a record filed under this subsection is or becomes inaccurate or incomplete
17 in a material respect, the registrant shall promptly file a correcting amendment.

18 (c) Subject to ~~15 U.S.C. § 78o(h)~~ 15 U.S.C. § 78o(i) or ~~15 U.S.C. § 80b-22~~
19 15 U.S.C. § 80b-18a:

20 (1) a broker-dealer registered or required to be registered under this
21 chapter and an investment adviser registered or required to be registered under

1 this chapter shall make and maintain the accounts, correspondence,
2 memoranda, papers, books, and other records required by rule adopted or order
3 issued under this chapter;

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

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

11 (d) The records of a broker-dealer registered or required to be registered
12 under this chapter and of an investment adviser registered or required to be
13 registered under this chapter are subject to such reasonable periodic, special, or
14 other audits or inspections by a representative of the Commissioner, within or
15 without this State, as the Commissioner considers necessary or appropriate in
16 the public interest and for the protection of investors. An audit or inspection
17 may be made at any time and without prior notice. The Commissioner may
18 copy, and remove for audit or inspection copies of, all records the
19 Commissioner reasonably considers necessary or appropriate to conduct the
20 audit or inspection. The Commissioner may assess a reasonable charge for
21 conducting an audit or inspection under this subsection.

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

16 (f) Subject to 15 U.S.C. § 80b-18a, an investment advisor registered or
17 required to be registered under this chapter shall maintain adequate insurance
18 for the risk of a cybersecurity breach. The Commissioner may establish
19 requirements for such cybersecurity insurance, including criteria that may be
20 used to determine if the cybersecurity insurance is adequate.

1 (g) Subject to ~~15 U.S.C. § 78o(h)~~ 15 U.S.C. § 78o(i) or ~~15 U.S.C. § 80b-22~~
2 15 U.S.C. § 80b-18a, an agent may not have custody of funds or securities of a
3 customer except under the supervision of a broker-dealer, and an investment
4 adviser representative may not have custody of funds or securities of a client
5 except under the supervision of an investment adviser or a federal covered
6 investment adviser. A rule adopted or order issued under this chapter may
7 prohibit, limit, or impose conditions on a broker-dealer regarding custody of
8 funds or securities of a customer and on an investment adviser regarding
9 custody of securities or funds of a client.

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

15 ~~(h)~~(i) A rule adopted or order issued under this chapter may require an
16 individual registered under section 5402 or 5404 of this chapter to participate
17 in a continuing education program approved by the Securities and Exchange
18 Commission and administered by a self-regulatory organization or, in the
19 absence of such a program, a rule adopted or order issued under this chapter
20 may require continuing education for an individual registered under section
21 5404.

