

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

H.648

An act relating to banking, insurance, and securities

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

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

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

§ 2102. APPLICATION FOR LICENSE

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

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

* * *

1 ~~or her~~ the person's own financial condition, which may include factors such as
2 whether the person has:

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

5 (ii) current outstanding tax liens or other government liens and
6 filings;

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

8 (iv) a pattern of seriously delinquent accounts within the past three
9 years.

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

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

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

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

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

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

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

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

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

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

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

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

1 determines that the person or group of persons requesting approval has the
2 financial condition and responsibility, competence, financial and business
3 experience, character, and general fitness to control and operate the licensee in
4 a lawful and proper manner, and that the interests of the public will not be
5 jeopardized by the change of control.

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

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

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

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

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

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

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

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

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

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

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

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

6 § 2252. ~~REGISTRATION LICENSE REQUIRED;~~ FINANCIAL STABILITY

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

11 (b) ~~A company shall file with the Commissioner evidence of its financial~~
12 ~~stability, which shall include proof of~~ In addition to the information required
13 by section 2102 of this title, an applicant for a consumer litigation funding
14 license shall provide, and a licensee shall at all times maintain, a surety bond
15 or irrevocable letter of credit issued and confirmed by a financial institution
16 authorized by law to transact business in Vermont that is equal to double the
17 amount of the company's largest funded amount in Vermont in the prior three
18 calendar years or \$50,000.00, whichever is greater.

1 the equivalent from any other eligible rating service. In the event that ratings
2 differ among eligible rating services, the highest rating shall apply when
3 determining whether a security bears an eligible rating.

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

8 (10) “Exchange,” when used as a verb in reference to a transaction or
9 relationship involving virtual currency, 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 (11) “In this State” means at a physical location within Vermont for a
17 transaction requested in person. For a transaction requested electronically or
18 by phone, the provider of money transmission may determine if the person
19 requesting the transaction is “in this State” by relying on other information
20 provided by the person regarding the location of the individual’s residential
21 address or a business entity’s principal place of business or other physical

1 address location, and any records associated with the person that the provider
2 of money transmission may have to indicate such location, including an
3 address associated with an account.

4 ~~(11)~~(12) “Licensee” means a person licensed under this chapter.

5 ~~(12)~~(13) “Limited station” means private premises where a check casher
6 is authorized to engage in check cashing for not more than two days of each
7 week solely for the employees of the particular employer or group of
8 employers specified in the check casher license application.

9 ~~(13)~~(14) “Mobile location” means a vehicle or a movable facility where
10 check cashing occurs.

11 ~~(14)~~(15) “Monetary value” means a medium of exchange, whether or
12 not redeemable in money.

13 ~~(15)~~(16) “Money” means a medium of exchange that is issued by the
14 United States or a foreign government. The term includes a monetary unit of
15 account established by an intergovernmental organization or by agreement
16 between two or more governments.

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

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

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

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

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

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

1 money transmission kiosk if different persons, and the text of each disclosure
2 required pursuant to subsection (c) of this section along with a description of
3 the form, timing, and location for each disclosure.

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

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

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

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

1 ~~from the customer. A virtual currency kiosk operator shall not allow a~~
2 ~~customer to engage in any transaction at a virtual currency kiosk under any~~
3 ~~name, account, or identity other than the customer's own true name and~~
4 ~~identity. A virtual currency kiosk operator shall obtain a copy of a~~
5 ~~government issued identification card that identifies the customer and shall~~
6 ~~collect additional customer information, including the customer's name, date~~
7 ~~of birth, telephone number, address, and email address prior to accepting any~~
8 ~~payment from a customer at a virtual currency kiosk in this State. In addition,~~
9 ~~a virtual currency kiosk operator shall take a photograph of the customer in a~~
10 ~~retainable format at the virtual currency kiosk for each transaction. A virtual-~~
11 ~~currency kiosk operator shall be strictly liable for any violation of this~~
12 ~~subsection.~~

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

17 ~~(i) Mandatory live screening.~~

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

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

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

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

13 ~~(4)~~(3) Fee refund for existing customers. The virtual-currency kiosk
14 operator shall provide a fee refund to an existing customer who has been
15 fraudulently induced to engage in a virtual-currency kiosk transaction,
16 provided the customer contacts the virtual-currency kiosk operator and a law
17 enforcement or government agency to inform the operator and the agency of
18 the fraudulent nature of the transaction within 90 days after the last
19 fraudulently induced transaction. The refund shall include all fees charged in
20 association with the fraudulently induced transaction.

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

12 * * *

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

14 § 14301. LOAN AUTHORITY

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

19 (b) Written loan policy.

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

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

3 (A) loan portfolio mix and diversification standards and, if
4 applicable, derivative transaction portfolio mix and diversification standards;

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

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

9 (D) documentation and approval requirements to monitor compliance
10 with lending policies; and

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

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

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

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

1 of 50 percent of its capital. As used in this subsection, “corporate group”
2 means a person and all persons in whom it owns, controls, or holds the power
3 to vote 50 percent or more of any class of voting securities. ~~Total loans,~~
4 ~~derivative transactions, or other extensions of credit in excess of 10 percent of~~
5 ~~capital shall be approved by a majority of the governing body or the executive~~
6 ~~committee of that institution or organization.~~

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

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

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

20 (i) The expected source of repayment for each obligation is the
21 same for each borrower and neither borrower has another source of income

1 from which the loan, together with the borrower's other obligations, may be
2 fully repaid. An employer shall not be treated as a source of repayment under
3 this subdivision (i) with respect to wages and salaries paid to an employee,
4 unless the situation in subdivision (ii) of this subdivision (d)(1)(B) exists.

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

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

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

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

20 (III) For purposes of this subdivision (d)(1)(B)(ii), substantial
21 financial interdependence is deemed to exist when 50 percent or more of one

1 borrower's gross receipts or gross expenditures are, on an annual basis, derived
2 from transactions with the other borrower.

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

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

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

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

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

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

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

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

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

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

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

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

4 (G) ~~Indebtedness~~ indebtedness secured to the extent thereof by
5 savings deposits or certificates of deposit of solvent financial institutions up to
6 the amount insured by the Federal Deposit Insurance Corporation, and duly
7 assigned;

8 (H) ~~Any~~ any portion of any indebtedness that the U.S. government,
9 or an 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 (I) ~~Additional~~ additional funds advanced for the benefit of a borrower
15 by a financial institution for payment of taxes, insurance, utilities, security, and
16 maintenance and operating expenses necessary to preserve the value of real
17 property securing the loan;

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

20 (K) ~~That~~ that portion of a loan or extension of credit sold as a
21 participation by a financial institution on a nonrecourse basis, provided that the

1 participation results in a pro rata sharing of credit risk proportionate to the
2 respective interests of the originating and participating lenders.

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

4 § 30101. DEFINITIONS

5 ~~As used in this part~~ Except as otherwise specifically provided elsewhere in
6 this title, the following terms have the following meanings for purposes of this
7 Part and Parts 1, 2, and 4 of this title, unless the context clearly indicates
8 otherwise:

9 * * *

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

11 § 31304. MEETINGS OF GOVERNING BODY

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

