

1 H.648

2 An act relating to banking, insurance, and securities

3 The House concurs in the Senate proposal of amendment with further  
4 proposal of amendment thereto as follows:

5 First: By striking out Sec. 11, 8 V.S.A. § 2507, in its entirety and inserting  
6 in lieu thereof a new Sec. 11 to read as follows:

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

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 method by which the user may cancel the transaction to avoid the imposition of  
2 fees or charges; and

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

10 \* \* \*

11 Second: By striking out Sec. 14a, 8 V.S.A. § 2577(f), in its entirety and  
12 inserting in lieu thereof a new Sec. 14a to read as follows:

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

14 § 2574. REQUIRED DISCLOSURES

15 \* \* \*

16 (c) ~~Disclosures.~~

17 ~~(1)~~ Disclosures prior to each virtual-currency transaction. In connection  
18 with any virtual-currency transaction effected through a virtual-currency kiosk  
19 in this State, or in any transaction where the licensee or any affiliate thereof is  
20 acting in a principal capacity in a sale of virtual currency to, or purchase of

1 virtual currency from, a customer, then immediately prior to effecting such a  
2 purchase or sale transaction with or on behalf of a customer, a licensee shall  
3 prominently disclose and shall require the customer to acknowledge and  
4 confirm the terms and conditions of the virtual-currency transaction, which  
5 shall include the following:

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

7 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (e) Licensee daily confirmation. If a licensee discloses that it will provide  
2 a daily confirmation in the initial disclosure under subsection (b) of this  
3 section, the licensee may elect to provide a single, daily confirmation for all  
4 transactions with or on behalf of a person on that day instead of a per-  
5 transaction confirmation.

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

- 13 ~~(1) the identification of any applicable digital wallet address to which~~  
14 ~~virtual currency is transmitted;~~
- 15 ~~(2) the full name of the account owner;~~
- 16 ~~(3) any unique transaction identifiers;~~
- 17 ~~(4) a prominent statement of the virtual currency kiosk operator's refund~~  
18 ~~obligations under this section, in a form approved by the Commissioner;~~
- 19 ~~(5) a statement of the operator's liability for nondelivery or delayed~~  
20 ~~delivery of virtual currency; and~~

1           ~~(6) the name and telephone number of the Department of Financial~~  
2     ~~Regulation and a statement disclosing that a customer may contact the~~  
3     ~~Department with questions or complaints about an operator.~~

4           ~~(g) Customer warning.~~

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

9     ~~Customer Notice. Please Read Carefully.~~

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

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

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

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

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

4           ~~(h) Statement of material risks. As used in subdivision (c)(2)(F) of this~~  
5 ~~section, a statement of material risks associated with virtual currency~~  
6 ~~transactions, generally, shall include disclosures substantially similar to the~~  
7 ~~following:~~

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

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

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

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

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

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

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

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

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

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

1        Third: By adding a new section to be Sec. 14b, to read as follows:

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

3        § 2577. VIRTUAL-CURRENCY KIOSK OPERATORS PROHIBITION

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

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

11            (2) ~~A virtual currency kiosk operator shall not accept or dispense more~~  
12 ~~than \$5,000.00 of cash in a day in connection with virtual currency~~  
13 ~~transactions with a single, existing customer in this State via one or more~~  
14 ~~virtual currency kiosks~~ No person shall offer, facilitate, or engage in, in whole  
15 or in part, directly or indirectly, virtual-currency business activity via a money  
16 transmission kiosk in Vermont.

17        (b) ~~Fee cap~~ Registration expiration and refunds. ~~The aggregate fees and~~  
18 ~~charges, directly or indirectly, charged to a customer related to a single~~  
19 ~~transaction or series of related transactions involving virtual currency effected~~  
20 ~~through a money transmission kiosk in this State, including any difference~~

1 ~~between the price charged to a customer to buy, sell, exchange, swap, or~~  
2 ~~convert virtual currency and the prevailing market value of such virtual~~  
3 ~~currency at the time of such transaction, shall not exceed the greater of the~~  
4 ~~following:~~ With respect to any virtual-currency kiosk in operation in Vermont  
5 prior to July 1, 2026:

6 (1) ~~\$5.00; or~~ Expiration and termination. Any registration of a virtual-  
7 currency kiosk shall expire and terminate on July 1, 2026.

8 (2) ~~15 percent of the U.S. dollar equivalent of virtual currency involved~~  
9 ~~in the transaction or transactions.~~

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

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

17 (e) ~~Operator accountability. If a virtual-currency kiosk operator allows or~~  
18 ~~facilitates another person to engage in virtual-currency business activity via a~~  
19 ~~virtual-currency kiosk in this State that is owned, operated, or managed by the~~

1 ~~virtual-currency kiosk operator, the virtual-currency kiosk operator shall do all~~  
2 ~~of the following:~~

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

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

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

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

16 ~~(g) Customer identification. For each virtual-currency transaction~~  
17 ~~occurring at a virtual-currency kiosk in this State, the virtual-currency kiosk~~  
18 ~~operator shall verify the identity of the customer prior to accepting payment~~  
19 ~~from the customer. A virtual-currency kiosk operator shall not allow a~~  
20 ~~customer to engage in any transaction at a virtual-currency kiosk under any~~

1 name, account, or identity other than the customer's own true name and  
2 identity. A virtual currency kiosk operator shall obtain a copy of a  
3 government issued identification card that identifies the customer and shall  
4 collect additional customer information, including the customer's name, date  
5 of birth, telephone number, address, and email address prior to accepting any  
6 payment from a customer at a virtual currency kiosk in this State. In addition,  
7 a virtual currency kiosk operator shall take a photograph of the customer in a  
8 retainable format at the virtual currency kiosk for each transaction. A virtual  
9 currency kiosk operator shall be strictly liable for any violation of this  
10 subsection.

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

15 (i) Mandatory live screening.

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

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

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

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

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

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

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

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

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

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

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

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           (4) Records retention. Until at least July 1, 2031, or a later date required  
2 by the Commissioner, the virtual-currency kiosk operator shall maintain, and  
3 make available to the Commissioner upon request, all records that the virtual-  
4 currency kiosk operator was required to maintain prior to July 1, 2026.

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

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

14           ~~(1) the identification and assessment of fraud-related risk areas;~~

15           ~~(2) procedures and controls to protect against identified risks;~~

16           ~~(3) allocation of responsibility for monitoring risks;~~

17           ~~(4) procedures for the periodic evaluation and revision of the antifraud~~  
18 ~~procedures, controls, and monitoring mechanisms;~~

19           ~~(5) procedures and controls that prevent more than one customer from~~  
20 ~~using the same digital wallet;~~

1           ~~(6) procedures and controls that enable the virtual currency kiosk~~  
2 ~~operator to prevent a digital wallet from being used at a virtual currency kiosk~~  
3 ~~it operates if the operator knows or reasonably should know the digital wallet~~  
4 ~~is affiliated with fraudulent activities; and~~

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

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

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

18           ~~(p) Compliance officer.~~

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

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

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

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

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

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

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

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

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

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

1        Fourth: By striking out Sec. 59, effective date, and its corresponding reader  
2 assistance heading in their entireties and inserting in lieu thereof the following:

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

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

5        (e)(1) A loan contract made in knowing and willful violation of subdivision  
6 2201(a)(1) of this title is void, and the lender shall not collect or receive any  
7 principal, interest, or charges; provided, however, in the case of a loan made in  
8 violation of subdivision 2201(a)(1) of this title, where the Commissioner does  
9 not find a knowing and willful violation, the lender shall not collect or receive  
10 any interest or charges, but may collect and receive principal.

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

1           (3) If a person who receives an order that directs the person to cease  
2 exercising the duties and powers of a licensee ~~and imposes an administrative~~  
3 ~~penalty under this part~~ continues to perform the duties or exercise the powers  
4 of a licensee without ~~satisfying the penalty, or otherwise reaching a~~  
5 satisfactory resolution between the parties that allows the person to exercise  
6 such duties and powers, or securing a decision vacating the order by the  
7 Commissioner or by a court of competent jurisdiction, a loan contract or  
8 commercial financing contract made by the person after receipt of such order is  
9 void and the ~~lender~~ person shall not collect or receive any principal, interest, ~~or~~  
10 amounts, payments, receivables, or charges.

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

12 § 2247. COMMERCIAL FINANCING

13 (a) Definitions. As used in this section:

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

16           (2) “Factoring transaction” means an accounts receivable purchase  
17 transaction that includes an agreement to purchase, transfer, assign, or sell a  
18 legally enforceable claim for payment held by a recipient for goods the  
19 recipient has supplied or services the recipient has rendered that have been  
20 ordered but for which payment has not yet been made. A purchase of accounts

1 receivable in connection with the purchase and sale of substantially all of the  
2 assets of a business or line of business shall not be deemed to be a factoring  
3 transaction.

4 (3) “Finance charge” means the cost of financing as a dollar amount. It  
5 includes any charge payable directly or indirectly by the recipient and imposed  
6 directly or indirectly by the provider as an incident to or a condition of the  
7 extension of financing. It includes all charges that would be included under  
8 12 C.F.R. part 1026.4 as if the transaction were subject to 12 C.F.R. part  
9 1026.4. In addition, the finance charge shall include any charges as  
10 determined by the Commissioner. For the purposes of a factoring transaction,  
11 the finance charge includes the discount taken on the face value of the accounts  
12 receivable.

13 (4) “Provider” means a person who provides or will provide commercial  
14 financing to a recipient or who extends a specific offer of commercial  
15 financing to a person or to the person’s authorized representative. A provider  
16 also includes a person who solicits prospective recipients of commercial  
17 financing or who presents specific offers of commercial financing on behalf of  
18 a third party.

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

4           (6) “Sales-based financing” means a transaction that is repaid by the  
5 recipient to the provider, over time, as a percentage of sales or revenue, in  
6 which the payment amount may increase or decrease according to the volume  
7 of sales made or revenue received by the recipient. Sales-based financing also  
8 includes a true-up mechanism where the financing is repaid as a fixed payment  
9 but provides for a reconciliation process that adjusts the payment to an amount  
10 that is a percentage of sales or revenue. Sales-based financing also includes  
11 transactions structured as a sale or assignment of future accounts receivable,  
12 future revenue, or future sales.

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

15           (A) solicit prospective recipients for commercial financing;

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

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

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

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

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

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

10          (8) "Specific offer" means the specific terms of commercial financing,  
11 including price or amount, that is quoted to a recipient, based on information  
12 obtained from, or about, the recipient, which, if accepted by a recipient, shall  
13 be binding on the provider, as applicable, subject to any specific requirements  
14 stated in such terms.

15          (b) License requirement.

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

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

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

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

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

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

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

17           (4) This section shall not apply to commercial financing transactions of  
18 \$1,000,000.00 or more that are not primarily for personal, family, or household  
19 use.

20           (5) For purposes of this section, 8 V.S.A. § 2201(d) shall not apply.

1       (c) Personal, family, or household use. A commercial financing offered,  
2       extended, or otherwise provided primarily for personal, family, or household  
3       use, for the purpose of regulation under this chapter, shall also be deemed to be  
4       a loan for purposes of this chapter. Any commercial financing deemed to be a  
5       loan under this subsection shall be governed by and subject to applicable  
6       provisions of this title, including this section, and 9 V.S.A. chapters 4, 59, and  
7       61.

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

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

15       (f) Choice of law, jurisdiction, and venue; arbitration. Where a provider  
16       enters into a contract or agreement with a recipient to provide commercial  
17       financing, such contract or agreement shall be governed exclusively by  
18       Vermont law, and any cause of action arising under such contract or agreement  
19       shall be brought in a court in this State. Any provision in the contract or  
20       agreement providing that the law of any other jurisdiction shall govern or

1 mandating that any such action be brought outside this State shall be  
2 unenforceable by any party other than the recipient. Where a contract between  
3 a provider and recipient contains an arbitration provision, such contract shall  
4 not require face-to-face arbitration proceedings outside this State. If the  
5 contract requires face-to-face arbitration proceedings outside this State, such  
6 provision is unenforceable by any party other than the recipient. The  
7 enforceability of the remaining provisions of the arbitration agreement and the  
8 method of selecting a forum for the conduct of the arbitration proceedings are  
9 as provided in the Vermont Arbitration Act, 12 V.S.A. chapter 192, the Federal  
10 Arbitration Act, 9 U.S.C. §§ 1–16, and any applicable rules of arbitration. The  
11 provider shall pay any arbitrators’ expenses or fees, or any other expenses or  
12 administrative fees incurred in the conduct of any such arbitration proceedings.

13 (g) Sales-based financing disclosure requirements.

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

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

1           (B) The finance charge.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11                    (h) Factoring transaction disclosure requirements.

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

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

17                    (B) The finance charge.

18                    (C) The estimated annual percentage rate, using the words “annual  
19 percentage rate” or the abbreviation “APR,” calculated according to the federal  
20 Truth in Lending Act, Regulation Z, 12 C.F.R. § 1026 Appendix J, as a “single

1 advance, single payment transaction,” regardless of whether such act or such  
2 regulation would require such a calculation. To calculate the estimated annual  
3 percentage rate, the purchase amount is considered the financing amount, the  
4 purchase amount minus the finance charge is considered the payment amount,  
5 and the term is established by the payment due date of the receivables. As an  
6 alternate method of establishing the term, the provider may estimate the term  
7 for a factoring transaction as the average payment period, based on its  
8 historical data over a period not to exceed the previous 12 months, concerning  
9 payment invoices paid by the party owing the accounts receivable in question.

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

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

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

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

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

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

6           (i) Disclosures required if recipient required to pay off existing commercial  
7 financing as condition. If as a condition of obtaining commercial financing the  
8 provider requires the recipient to pay off the balance of existing commercial  
9 financing from the same provider, the provider shall disclose to the recipient:

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

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

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

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

9           (2) Rules necessary to develop and prescribe disclosure formatting to be  
10 used by providers that allows for recipients to easily compare financing options  
11 in a clear and conspicuous manner. Such rules may include the designation  
12 and method for disclosing the information required in this section, or  
13 approving adequate forms and methods already used by providers.

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

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

18       Sec. 61. COMMERCIAL FINANCING RULEMAKING

19           The Commissioner may initiate a rulemaking concerning the  
20 implementation and enforcement of commercial financing transactions

1 consistent with the requirements established in Secs. 59 and 60 of this act.

2 However, such rules shall not take effect until on or after July 1, 2027.

3 \* \* \* Effective Dates; Application \* \* \*

4 Sec. 62. EFFECTIVE DATES; APPLICATION

5 This act shall take effect on July 1, 2026, except that Secs. 59 and 60,

6 concerning commercial financing, shall take effect on July 1, 2027, and shall

7 apply to commercial financing contracts entered into or modified, amended, or

8 restructured on or after July 1, 2027.