

1 * * * **Revisions Highlighted in Yellow** * * *

2 TO THE HOUSE OF REPRESENTATIVES:

3 The Committee on Commerce and Economic Development to which was
4 referred House Bill No. 137 entitled “An act relating to the regulation of
5 insurance products and services” respectfully reports that it has considered the
6 same and recommends that the bill be amended by striking out all after the
7 enacting clause and inserting in lieu thereof the following:

8 Sec. 1. 8 V.S.A. § 23 is amended to read:

9 § 23. CONFIDENTIALITY OF INVESTIGATION AND EXAMINATION
10 REPORTS

11 (a) This section shall apply to all persons licensed, authorized, or
12 registered, or required to be licensed, authorized, or registered, ~~under this title~~
13 ~~or under 9 V.S.A. chapter 150~~ by the Commissioner.

14 (b) Regardless of source, all records of investigations, including
15 information pertaining to a complaint by or for a consumer, and all records and
16 reports of examinations by the Commissioner, whether in the possession of a
17 supervisory agency or another person, shall be confidential and privileged,
18 shall not be made public, and shall not be subject to discovery or introduction
19 into evidence in any private civil action. No person who participated on behalf
20 of the Commissioner in an investigation or examination shall be permitted or
21 required to testify in any such civil action as to any findings,

1 recommendations, opinions, results, or other actions relating to the
2 investigation or examination.

3 (c) The Commissioner may, in ~~his or her~~ the Commissioner's discretion,
4 disclose or publish or authorize the disclosure or publication of any such
5 record or report or any part thereof in the furtherance of legal or regulatory
6 proceedings brought as a part of the Commissioner's official duties. The
7 Commissioner may, in ~~his or her~~ the Commissioner's discretion, disclose or
8 publish or authorize the disclosure or publication of any such record or report
9 or any part thereof, to civil or criminal law enforcement authorities for use in
10 the exercise of such authority's duties, in such manner as the Commissioner
11 may deem proper.

12 (d) For the purposes of this section, records of investigations and records
13 and reports of examinations shall include joint examinations by the
14 Commissioner and any other supervisory agency. Records of investigations
15 and reports of examinations shall also include records of examinations and
16 investigations conducted by:

17 (1) any agency with supervisory jurisdiction over the person; and

18 (2) any agency of any foreign government with supervisory jurisdiction
19 over any person subject to the jurisdiction of the Department, when such
20 records are considered confidential by such agency or foreign government and
21 the records are in the possession of the Commissioner.

22 Sec. 2. 8 V.S.A. § 3303 is amended to read:

1 § 3303. MUTUAL COMPANIES; DIRECTORS, CHARTER PROVISIONS

2 AS TO

3 The articles of association or bylaws of a mutual insurer shall set forth the
4 manner in which its board of directors or other governing body shall be
5 elected, and in which meetings of policyholders shall be called, held, and
6 conducted, subject to such procedures as may be required by the
7 Commissioner under ~~section 75~~ subsection 15(a) of this title.

8 Sec. 3. 8 V.S.A. § 4688(a) is amended to read:

9 (a) Filings as to competitive markets. Except with respect to filings
10 submitted pursuant to section 4687 of this title, in a competitive market, every
11 insurer shall file with the Commissioner all rates and supplementary rate
12 information, and supporting information that are to be used in this State,
13 provided that such rates and information need not be filed for specifically rated
14 inland marine risks or such other risks that are designated by regulation of the
15 Commissioner as not requiring a filing. Such rates, supplementary rate
16 information, and supporting information shall be provided to the
17 Commissioner not later than ~~15 days after~~ 30 days prior to the effective date.

18 An insurer may adopt by reference, with or without deviation or modification,
19 provided that said deviation or modification is readily identifiable, the rates,
20 supplementary rate information, and supporting information filed by another
21 insurer or an advisory or service organization with which it is affiliated;

1 provided, however, such an adoption shall not relieve an insurer from any
2 other requirements of this chapter.

3 Sec. 4. 8 V.S.A. § 4724 is amended to read:

4 § 4724. UNFAIR METHODS OF COMPETITION OR UNFAIR OR

5 DECEPTIVE ACTS OR PRACTICES DEFINED

6 * * *

7 (23) Affordable housing; unfair discrimination.

8 (A) An insurer that issues or delivers in this State a policy of
9 insurance covering loss of or damage to real property containing units for
10 residential purposes or legal liability of an owner or renter of such real
11 property shall not cancel, refuse to issue, refuse to renew, or increase the
12 premium of a policy, or exclude, limit, restrict, or reduce coverage under a
13 policy, based on the following:

14 (i) whether the residential building contains dwelling units that are
15 required to be affordable to residents at a specific income level pursuant to a
16 statute, regulation, restrictive declaration, or regulatory agreement with a local,
17 State, or federal government entity;

18 (ii) whether the real property owner or tenants of such residential
19 building or the shareholders of a cooperative housing corporation receive
20 rental assistance provided by a local, State, or federal government entity,
21 including the receipt of federal vouchers issued under Section 8 of the U.S.
22 Housing Act of 1937, 42 U.S.C. § 1437f;

1 (iii) the level or source of income of the tenants of the residential
2 building or the shareholders of a cooperative housing corporation; or

3 (iv) whether the residential building is owned by a limited-equity
4 cooperative, public housing agency, or cooperative housing corporation.

5 (B) Nothing in this section shall prohibit an insurer from cancelling,
6 refusing to issue, refusing to renew, or increasing the premium of an insurance
7 policy, or excluding, limiting, restricting, or reducing coverage under a policy,
8 due to other factors that are permitted or not prohibited by any other section of
9 this chapter.

10 Sec. 5. 8 V.S.A. § 6002(a) is amended to read:

11 (a) Any captive insurance company, when permitted by its articles of
12 association, charter, or other organizational document, may apply to the
13 Commissioner for a license to ~~do any and all~~ conduct insurance business
14 comprised in subdivisions 3301(a)(1), (2), (3)(A) (C), (E) (Q), and (4) (9)
15 section 3301 of this title and may grant annuity contracts as defined in section
16 3717 of this title and may accept or transfer risk by means of a parametric
17 contract; provided, however, that:

18 (1) No pure captive insurance company may insure any risks other than
19 those of its parent and affiliated companies or controlled unaffiliated business.

20 (2) No agency captive insurance company may do any insurance
21 business in this State unless:

1 (A) an insurance agency or brokerage that owns or controls the
2 agency captive insurance company remains in regulatory good standing in all
3 states in which it is licensed;

4 (B) it insures only the risks of the commercial policies that are placed
5 by or through an insurance agency or brokerage that owns or directly or
6 indirectly controls the agency captive insurance company and, if required by
7 the Commissioner in ~~his or her~~ the Commissioner's discretion, it provides the
8 Commissioner the form of such commercial policies;

9 (C) it discloses to the original policyholder or policyholders, in a
10 form or manner approved by the Commissioner, that the agency captive
11 insurance company as a result of its affiliation with an insurance agency or
12 brokerage may enter into a reinsurance or other risk-sharing agreement with
13 the agency or brokerage; and

14 (D) if required by the Commissioner in ~~his or her~~ the
15 Commissioner's discretion, the business written by an agency captive
16 insurance company is:

17 (i) Fronted by an insurance company licensed under the laws of
18 any state.

19 (ii) Reinsured by a reinsurer authorized or approved by the State
20 of Vermont.

21 (iii) Secured by a trust fund in the United States for the benefit of
22 policyholders and claimants or funded by an irrevocable letter of credit or

1 other arrangement that is acceptable to the Commissioner. The Commissioner
2 may require the agency captive insurance company to increase the funding of
3 any security arrangement established under this subdivision. If the form of
4 security is a letter of credit, the letter of credit shall be issued or confirmed by a
5 bank approved by the Commissioner. A trust maintained pursuant to this
6 subdivision shall be established in a form and upon terms approved by the
7 Commissioner.

8 (3) No association captive insurance company may insure any risks
9 other than those of its association, those of the member organizations of its
10 association, and those of a member organization's affiliated companies.

11 (4) No industrial insured captive insurance company may insure any
12 risks other than those of the industrial insureds that comprise the industrial
13 insured group, those of their affiliated companies, and those of the controlled
14 unaffiliated business of an industrial insured or its affiliated companies.

15 (5) No risk retention group may insure any risks other than those of its
16 members and owners.

17 (6) No captive insurance company may provide personal motor vehicle
18 or homeowner's insurance coverage or any component thereof.

19 (7) No captive insurance company may accept or cede reinsurance
20 except as provided in section 6011 of this title.

21 (8) Any captive insurance company may provide excess workers'
22 compensation insurance to its parent and affiliated companies, unless

1 prohibited by the federal law or laws of the state having jurisdiction over the
2 transaction. Any captive insurance company, unless prohibited by federal law,
3 may reinsure workers' compensation of a qualified self-insured plan of its
4 parent and affiliated companies.

5 (9) Any captive insurance company that insures risks described in
6 subdivisions 3301(a)(1) and (2) of this title shall comply with all applicable
7 State and federal laws.

8 (10) Any captive insurance company that transfers risk by means of a
9 parametric contract shall comply with all applicable State and federal laws and
10 regulations.

11 Sec. 6. 8 V.S.A. § 6004(d) is amended to read:

12 (d) Within 30 days after commencing business, each captive insurance
13 company shall file with the Commissioner a statement under oath of its
14 president and secretary or, in the case of a captive insurance company formed
15 as a limited liability company or as a reciprocal insurer, of two individuals
16 authorized by the governing board certifying that the captive insurance
17 company possessed the requisite unimpaired, paid-in capital and surplus prior
18 to commencing business.

19 Sec. 7. 8 V.S.A. § 6006 is amended to read:

20 § 6006. FORMATION OF CAPTIVE INSURANCE COMPANIES IN THIS
21 STATE

22 * * *

1 (h) Other than captive insurance companies formed as limited liability
2 companies under 11 V.S.A. ~~chapter 21~~ chapter 25 or as nonprofit corporations
3 under Title 11B, captive insurance companies formed as corporations under the
4 provisions of this chapter shall have the privileges and be subject to the
5 provisions of Title 11A as well as the applicable provisions contained in this
6 chapter. In the event of conflict between the provisions of said general
7 corporation law and the provisions of this chapter, the latter shall control.

8 (i) Captive insurance companies formed under the provisions of this
9 chapter:

10 (1) As limited liability companies shall have the privileges and be
11 subject to the provisions of 11 V.S.A. ~~chapter 21~~ chapter 25 as well as the
12 applicable provisions contained in this chapter. In the event of a conflict
13 between the provisions of 11 V.S.A. ~~chapter 21~~ chapter 25 and the provisions
14 of this chapter, the latter shall control.

15 (2) As nonprofit corporations shall have the privileges and be subject to
16 the provisions of Title 11B as well as the applicable provisions contained in
17 this chapter. In the event of conflict between the provisions of Title 11B and
18 the provisions of this chapter, the latter shall control.

19 (3) As mutual insurers shall have the privileges and be subject to the
20 provisions of sections 3303 and 3311 of this title as well as the applicable
21 provisions contained in this chapter. In the event of a conflict between the

1 provisions of sections 3303 and 3311 of this title and the provisions of this
2 chapter, the latter shall control.

3 * * *

4 Sec. 8. 8 V.S.A. § 6006a(a) is amended to read:

5 (a) Any captive insurance company meeting the qualifications set forth in
6 subdivision 6006(j)(1) of this title may merge with any other insurer, whether
7 licensed in this State or elsewhere, in the following manner:

8 (1) The board of directors of each insurer shall, by a resolution adopted
9 by a majority vote of the members of such board, approve a joint agreement of
10 merger setting forth:

11 (A) the names of the insurers proposed to merge, and the name of the
12 insurer into which they propose to merge, which is hereafter designated as the
13 surviving company;

14 (B) the terms and conditions of the proposed merger and the mode of
15 carrying the same into effect;

16 (C) the manner and basis of converting the ownership interests, if
17 applicable, in other than the surviving insurer into ownership interests or other
18 consideration, securities, or obligations of the surviving insurer;

19 (D) a restatement of such provisions of the articles of incorporation
20 of the surviving insurer as may be deemed necessary or advisable to give effect
21 to the proposed merger; and

1 (E) any other provisions with respect to the proposed merger as are
2 deemed necessary or desirable.

3 (2) The resolution of the board of directors of each insurer approving the
4 agreement shall direct that the agreement be submitted to a vote of the
5 shareholders, members, or policyholders, as the case may be, of each insurer
6 entitled to vote in respect thereof at a designated meeting thereof, or via
7 unanimous written consent of such shareholders, members, or policyholders in
8 lieu of a meeting. Notice of the meeting shall be given as provided in the
9 bylaws, charter, or articles of association, or other governance document, as
10 the case may be, of each insurer and shall specifically reflect the agreement as
11 a matter to be considered at the meeting.

12 (3) The agreement of merger so approved shall be submitted to a vote of
13 the shareholders, members, or policyholders, as the case may be, of each
14 insurer entitled to vote in respect thereof at the meeting directed by the
15 resolution of the board of directors of such company approving the agreement,
16 and the agreement shall be unanimously adopted by the shareholders,
17 members, or policyholders, as the case may be.

18 (4) Following the adoption of the agreement by any insurer, articles of
19 merger shall be adopted in the following manner:

20 (A) Upon the execution of the agreement of merger by all of the
21 insurers parties thereto, there shall be executed and filed, in the manner
22 hereafter provided, articles of merger setting forth the agreement of merger, the

1 signatures of the several insurers parties thereto, the manner of its adoption,
2 and the vote by which adopted by each insurer.

3 (B) The articles of merger shall be signed on behalf of each insurer
4 by a duly authorized officer or, in the case of an insurer formed as a limited
5 liability company or as a reciprocal insurer, by an individual authorized by the
6 governing board, in such multiple copies as shall be required to enable the
7 insurers to comply with the provisions of this subchapter with respect to filing
8 and recording the articles of merger, and shall then be presented to the
9 Commissioner.

10 (C) The Commissioner shall approve the articles of merger if ~~he or~~
11 ~~she~~ the Commissioner finds that the merger will promote the general good of
12 the State in conformity with those standards set forth in section 3305 of this
13 title. If ~~he or she~~ the Commissioner approves the articles of merger, ~~he or she~~
14 the Commissioner shall issue a certificate of approval of merger.

15 (5) The insurer shall file the articles of merger, accompanied by the
16 agreement of merger and the certificate of approval of merger, with the
17 Secretary of State and pay all fees as required by law. If the Secretary of State
18 finds that they conform to law, ~~he or she~~ the Secretary shall issue a certificate
19 of merger and return it to the surviving insurer or its representatives. The
20 merger shall take effect upon the filing of articles of merger with the Secretary
21 of State, unless a later effective date is specified therein.

1 (6) The surviving insurer shall file a copy of the certificate of merger
2 from the Secretary of State with the Commissioner.

3 Sec. 9. 8 V.S.A. § 6007(b) is amended to read:

4 (b) Prior to March 1 of each year, and prior to March 15 of each year in the
5 case of pure captive insurance companies, association captive insurance
6 companies, sponsored captive insurance companies, industrial insured captive
7 insurance companies, or agency captive insurance companies, each captive
8 insurance company shall submit to the Commissioner a report of its financial
9 condition, verified by oath of two of its executive officers or, in the case of a
10 captive insurance company formed as a limited liability company or as a
11 reciprocal insurer, of two individuals authorized by the governing board. Each
12 captive insurance company shall report using generally accepted accounting
13 principles, statutory accounting principles, or international financial reporting
14 standards unless the Commissioner requires, approves, or accepts the use of
15 any other comprehensive basis of accounting, in each case with any
16 appropriate or necessary modifications or adaptations thereof required or
17 approved or accepted by the Commissioner for the type of insurance and kinds
18 of insurers to be reported upon, and as supplemented by additional information
19 required by the Commissioner. As used in this section, statutory accounting
20 principles shall mean the accounting principles codified in the NAIC
21 Accounting Practices and Procedures Manual. Upon application for
22 admission, a captive insurance company shall select, with explanation, an

1 accounting method for reporting. Any change in a captive insurance
2 company's accounting method shall require prior approval. Except as
3 otherwise provided, each risk retention group shall file its report in the form
4 required by subsection 3561(a) of this title, and each risk retention group shall
5 comply with the requirements set forth in section 3569 of this title. The
6 Commissioner shall by rule propose the forms in which pure captive insurance
7 companies, association captive insurance companies, sponsored captive
8 insurance companies, and industrial insured captive insurance companies shall
9 report. Subdivision 6002(c)(3) of this title shall apply to each report filed
10 pursuant to this section, except that such subdivision shall not apply to reports
11 filed by risk retention groups.

12 Sec. 10. 8 V.S.A. § 6011(a) is amended to read:

13 (a) Any captive insurance company may provide reinsurance, of policies
14 approved by the Commissioner ~~comprised in subsection 3301(a)~~ section 3301
15 of this title, on risks of its parent, affiliated companies, and controlled
16 unaffiliated business ceded by any other insurer, and may provide reinsurance
17 of annuity contracts as defined in section 3717 of this title that are granted by
18 any other insurer.

19 Sec. 11. 8 V.S.A. § 6024(c) is amended to read:

20 (c) A dormant captive insurance company that has been issued a certificate
21 of dormancy shall:

1 (1) possess and thereafter maintain unimpaired, paid-in capital and
2 surplus of not less than \$25,000.00; provided, however, that if the dormant
3 captive insurance company had never capitalized, it shall not be required to
4 add capital upon entering dormancy;

5 (2) prior to March 15 of each year, submit to the Commissioner a report
6 of its financial condition, verified by oath of two of its executive officers or, in
7 the case of a captive insurance company formed as a limited liability company
8 or as a reciprocal insurer, of two individuals authorized by its governing board,
9 in a form as may be prescribed by the Commissioner; and

10 (3) pay a license renewal fee of \$500.00.

11 Sec. 12. 8 V.S.A. § 6045 is amended to read:

12 § 6045. BRANCH CAPTIVE REPORTS

13 Prior to March 15 of each year, or with the approval of the Commissioner
14 within 75 days after its fiscal year-end, a branch captive insurance company
15 shall file with the Commissioner a copy of all reports and statements required
16 to be filed under the laws of the jurisdiction in which the alien captive
17 insurance company is formed, verified by oath of two of its executive officers
18 or, in the case of a branch captive insurance company formed as a limited
19 liability company or as a reciprocal insurer, of two individuals authorized by
20 the governing board. If the Commissioner is satisfied that the annual report
21 filed by the alien captive insurance company in its domiciliary jurisdiction
22 provides adequate information concerning the financial condition of the alien

1 captive insurance company, the Commissioner may waive the requirement for
2 completion of the captive annual statement for business written in the alien
3 jurisdiction.

4 Sec. 13. 8 V.S.A. § 6048d(c)(2) is amended to read:

5 (2) The special purpose financial insurance company shall submit an
6 affidavit of its president, a vice president, the treasurer, or the chief financial
7 officer or, in the case of a special purpose financial insurance company formed
8 as a limited liability company or as a reciprocal insurer, of an individual
9 authorized by the governing board that includes the following statements, to
10 the best of such person’s knowledge and belief after reasonable inquiry:

11 (A) the proposed organization and operation of the special purpose
12 financial insurance company comply with all applicable provisions of this
13 chapter;

14 (B) the special purpose financial insurance company’s investment
15 policy reflects and takes into account the liquidity of assets and the reasonable
16 preservation, administration, and management of such assets with respect to
17 the risks associated with the reinsurance contract and the insurance
18 securitization transaction; and

19 (C) the reinsurance contract and any arrangement for securing the
20 special purpose financial insurance company’s obligations under such
21 reinsurance contract, including any agreements or other documentation to
22 implement such arrangement, comply with the provisions of this subchapter.

1 Sec. 14. 8 V.S.A. § 6052(g) is amended to read:

2 (g) This subsection establishes governance standards for a risk retention
3 group.

4 (1) As used in this subsection:

5 (A) “Board of directors” or “board” means the governing body of a
6 risk retention group elected by risk retention group members to establish
7 policy, elect or appoint officers and committees, and make other governing
8 decisions.

9 (B) “Director” means a natural person designated in the articles of
10 the risk retention group or designated, elected, or appointed by any other
11 manner, name, or title to act as a member of the governing body of the risk
12 retention group.

13 (C)~~(i)~~ “Independent director” means a director who does not have a
14 material relationship with the risk retention group. A director has a material
15 relationship with a risk retention group if ~~he or she~~ the director, or a member of
16 ~~his or her~~ the director’s immediate family:

17 ~~(i)~~(i) In any 12-month period, receives from the risk retention
18 group, or from a consultant or service provider to the risk retention group,
19 compensation or other item or items of value in an amount equal to or greater
20 than five percent of the risk retention group’s gross written premium or two
21 percent of the risk retention group’s surplus, as measured at the end of any
22 fiscal quarter falling in such 12-month period, whichever is greater. This

1 provision also applies to compensation or items of value received by any
2 business with which the director is affiliated. Such material relationship shall
3 continue for one year after receipt of the item or items of value or the
4 compensation falls below the threshold established in this subdivision.

5 ~~(H)~~(ii) Has a relationship with an auditor as follows: Is affiliated
6 with or employed in a professional capacity by a current or former internal or
7 external auditor of the risk retention group. Such material relationship shall
8 continue for one year after the affiliation or employment ends.

9 ~~(aa)~~(iii) Is employed as an executive officer of another business
10 entity that is affiliated with the risk retention group by virtue of common
11 ownership and control, if such entity meets all of the following criteria:

12 ~~(AA)~~(I) the entity is not an insured of the risk retention group;

13 ~~(BB)~~(II) the entity has a contractual relationship with the risk
14 retention group; and

15 ~~(CC)~~(III) the governing board of the entity includes executive
16 officers of the risk retention group, unless a majority of the membership of
17 such entity's governing board is composed of individuals who are members of
18 the governing board of the risk retention group.

19 ~~(bb)~~(IV) Such material relationship shall continue until the
20 employment or service ends.

21 ~~(i)~~(iv) Notwithstanding ~~subdivision (i)~~ subdivisions (i)–(iii) of
22 this subdivision (g)(1)(C), a director who is a direct or indirect owner of the

1 risk retention group is deemed to be independent; and an officer, director, or
2 employee of an insured of the risk retention group is deemed to be
3 independent, unless some other relationship of such officer, director, or
4 employee qualifies as a material relationship.

5 (D) “Material service provider” includes a captive manager, auditor,
6 accountant, actuary, investment advisor, attorney, managing general
7 underwriter, or other person responsible for underwriting, determination of
8 rates, premium collection, claims adjustment or settlement, or preparation of
9 financial statements, whose aggregate annual contract fees are equal to or
10 greater than five percent of the risk retention group’s annual gross written
11 premium or two percent of its surplus, whichever is greater. It does not mean
12 defense counsel retained by a risk retention group, unless ~~his or her~~ the defense
13 counsel’s annual fees have been equal to or greater than five percent of a risk
14 retention group’s annual gross premium or two percent of its surplus,
15 whichever is greater, during three or more of the previous five years.

16 * * *

17 (9) The president or chief executive officer or, in the case of a risk
18 retention group formed as a limited liability company or as a reciprocal insurer,
19 an individual authorized by the board of directors of a risk retention group
20 shall promptly notify the Commissioner in writing of any known material
21 noncompliance with the governance standards established in this subsection.

1 (D) has not been convicted of, or pled guilty or nolo contendere to, a
2 felony in a domestic, foreign, or military court, and no key individual or person
3 in control of such person has been convicted of, or pled guilty or nolo
4 contendere to, a felony in a domestic, foreign, or military court;

5 (E) has never had a financial services license or professional license
6 revoked in any jurisdiction and no key individual or person in control of such
7 person has ever had a financial services license or professional license revoked
8 in any jurisdiction, except that a subsequent formal vacation of such revocation
9 shall not be deemed a revocation;

10 (F) does not otherwise engage in the business of money transmission
11 in this State or other acts requiring a license under this chapter; and

12 (G) receives and holds all money or monetary value received for
13 transmission exclusively in:

14 (i) segregated trust accounts with federally insured financial
15 institutions or credit unions for the benefit of its employer customers or
16 applicable governmental authorities, such that the funds in such accounts are
17 not subject to claims or liens of its creditors; or

18 (ii) deposit accounts at federally insured financial institutions or
19 credit unions that are both titled in the name and tax identification number of
20 the financial institution or credit union and for the benefit of the person's
21 customers.

1 Sec. 16. 9 V.S.A. § 42 is amended to read:

2 § 42. PERMITTED CHARGES

3 (a) Except for interest as provided in this chapter, a lender shall make no
4 charges against a borrower for the use or forbearance of money other than:

5 * * *

6 (7) the reasonable cost of private mortgage guaranty insurance subject to
7 such limitation as the Commissioner of Financial Regulation has approved;

8 ~~and~~

9 (8) the reasonable fees associated with a credit card, agreed upon by the
10 lender and borrower, including late charges and over-limit charges; and

11 (9) discount points, at the request of the borrower for the purpose of
12 reducing, and which in fact result in a bona fide reduction of, the interest rate
13 or time-price differential applicable to the loan.

14 (b) A borrower may procure an opinion and abstract of title from an
15 attorney of ~~his or her~~ the borrower's choice acceptable to the lender, or hazard
16 insurance in a company or in companies of ~~his or her~~ the borrower's choice
17 acceptable to the lender, and in such cases the lender's acceptance shall not be
18 unreasonably withheld.

19 Sec. 17. STUDY; BANKS; SUSPICIOUS ACTIVITY; TRANSACTION

20 HOLD

21 (a) The Commissioner of Financial Regulation or designee shall study
22 regulatory models that would allow a financial institution to take measures to

1 protect account holders from fraudulent transactions and shall recommend a
2 model for legislative consideration. The study shall include a review of
3 regulatory models enacted or proposed in other jurisdictions.

4 (b) In conducting the study required by this section, the Commissioner
5 shall consult with a representative from the Vermont Bankers Association, the
6 Association of Vermont Credit Unions, AARP Vermont, the Office of the
7 Attorney General, Vermont Legal Aid, and any other person deemed
8 appropriate by the Commissioner.

9 (c) Among other things, the study shall include recommendations regarding
10 the following:

11 (1) the financial institutions subject to the proposed model;

12 (2) whether specific account holders, such as seniors or vulnerable
13 populations, should receive heightened protection;

14 (3) notification and consultation requirements available to an account
15 holder suspected to be the victim of fraudulent activity;

16 (4) a reasonable time period for imposing a transaction hold pending the
17 outcome of an internal investigation;

18 (5) notification to the Department of Financial Regulation and, if
19 appropriate, law enforcement or other third parties if fraudulent activity is
20 suspected;

21 (6) continued account holder access to funds for transactions not
22 suspected of being associated with fraudulent activity;

1 (7) immunity from civil liability for any financial institution that acts in
2 good faith for the purpose of protecting account holders from fraudulent
3 activity and that otherwise complies with applicable legal requirements; and

4 (8) any other provision deemed appropriate by the Commissioner.

5 (d) On or before November 15, 2025, the Commissioner shall **provide a**
6 **status report on the Commissioner’s preliminary findings and**
7 **recommendations to the Chair of the House Committee on Commerce and**
8 **Economic Development and the Chair of the Senate Committee on**
9 **Finance and, on or before January 15, 2026, shall submit a final** report in
10 draft form to the House Committee on Commerce and Economic Development
11 and the Senate Committee on Finance.

12 Sec. 18. STUDY; PROTECTIONS FOR VICTIMS OF COERCED DEBT

13 (a) The Commissioner of Financial Regulation or designee shall study
14 regulatory models for providing protections and remedies for victims of
15 coerced debt and shall recommend a model appropriate for Vermont. In
16 particular, the Commissioner shall review the Model State Coerced Debt Law
17 prepared by the National Consumer Law Center in May of 2024, as well as
18 laws enacted or proposed in other jurisdictions.

19 (b) In conducting the study required by this section, the Commissioner
20 shall consult with a representative from the Vermont Network, the Vermont
21 Bankers Association, the Association of Vermont Credit Unions, the Office of

1 the Attorney General, Vermont Legal Aid, and any other person deemed
2 appropriate by the Commissioner.

3 (c) Among other things, the study shall include recommendations regarding
4 the following:

5 (1) a definition of coerced debt;

6 (2) whether coerced debt should include both secured and unsecured
7 debt;

8 (3) the requisite information a debtor must provide a creditor when
9 alleging coerced debt;

10 (4) procedures a creditor must follow regarding the investigation of an
11 allegation of coerced debt, including ceasing collection efforts and notifying
12 the Department of Financial Regulation, the Office of the Attorney General,
13 and other law enforcement personnel, if appropriate;

14 (5) whether a credit reporting agency should remove coerced debt from
15 a credit report and, if so, the process for doing so;

16 (6) whether Vermont’s identity theft law, 13 V.S.A. § 2030, should be
17 expanded to more specifically reference instances of coerced debt; and

18 (7) any other provision deemed appropriate by the Commissioner.

19 (d) On or before November 15, 2025, the Commissioner shall **provide a**
20 **status report on the Commissioner’s preliminary findings and**
21 **recommendations to the Chair of the House Committee on Commerce and**
22 **Economic Development and the Chair of the Senate Committee on**

1 **Finance and, on or before January 15, 2026, shall submit a final** report in
2 draft form to the House Committee on Commerce and Economic Development
3 and the Senate Committee on Finance.

4 Sec. 19. RECOMMENDATION REGARDING INSURANCE AND
5 GENETIC PRIVACY

6 On or before November 15, 2025, and for the purpose of preventing **unfair**
7 genetic discrimination and safeguarding an individual’s genetic privacy, the
8 Commissioner of Financial Regulation shall provide a recommendation to the
9 House Committee on Commerce and Economic Development and the Senate
10 Committee on Finance on whether Vermont should enact a law prohibiting or
11 limiting an insurance company’s access to a consumer’s personalized genetic
12 report that is not part of the consumer’s medical record. Among other things,
13 the Commissioner shall consider whether **it is appropriate to allow a consumer**
14 **to consent to require that an insurance company obtain consumer consent**
15 **prior** to the disclosure of genetic information obtained from a direct-to-
16 consumer entity to an insurance company, including any company that offers
17 health, long-term care, life, or disability insurance.

18 Sec. 20. EFFECTIVE DATE

19 This act shall take effect on July 1, 2025.
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(Committee vote: _____)

Representative _____

FOR THE COMMITTEE