

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was  
3 referred House Bill No. 648 entitled “An act relating to banking, insurance,  
4 and securities” respectfully reports that it has considered the same and  
5 recommends that the bill be amended by striking out all after the enacting  
6 clause and inserting in lieu thereof the following:

7 \* \* \* Banking; Financial and Related Services \* \* \*

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

9 § 2102. APPLICATION FOR LICENSE

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

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

1 \* \* \*

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

5 \* \* \*

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

7 § 2103. APPROVAL OF APPLICATION AND ISSUANCE OF LICENSE

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

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

20 (B) For purposes of assessing whether a person is financially  
21 responsible, the Commissioner may consider how the person has managed ~~his~~

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.

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

\* \* \*

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

§ 2107. CHANGE OF CONTROL

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

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

(c) The Commissioner shall approve a request for change of control under subsection (a) of this section if, after investigation, the Commissioner determines that the person or group of persons requesting approval has the financial condition and responsibility, competence, financial and business experience, character, and general fitness to control and operate the licensee in

1 a lawful and proper manner, and that the interests of the public will not be  
2 jeopardized by the change of control.

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

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

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

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

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

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

21 (f) Regarding the control of a money transmitter licensee, the following  
22 persons are exempt from the prefiling requirements of subsection (a) of this

1 section and do not need the Commissioner's approval with respect to the  
2 following specific actions:

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

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

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

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

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

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

19 ~~(g)~~(h) Before filing a request for approval to acquire control, a person may  
20 request in a record a determination from the Commissioner as to whether the  
21 person would be considered a person in control of a licensee upon  
22 consummation of a proposed transaction. If the Commissioner determines that

1 the person would not be a person in control of a licensee, the Commissioner  
2 shall enter an order to that effect, and the proposed person and transaction is  
3 not subject to the requirements of subsections ~~(a) through (e)~~ (a)–(c) of this  
4 section.

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

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

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

14 Sec. 4. 8 V.S.A. § 2109 is amended to read:

15 § 2109. ANNUAL RENEWAL OF LICENSE

16 (a) On or before December 1 of each year, every licensee shall renew its  
17 license or registration for the next succeeding calendar year and shall pay to  
18 the Commissioner the applicable renewal of license or registration fee. At a  
19 minimum, the licensee or registree shall continue to meet the applicable  
20 standards for licensure or registration. At the same time, the licensee or  
21 registree shall maintain with the Commissioner any required bond in the



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

3 \* \* \*

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

6 \* \* \*

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

11 (f) Notwithstanding any other provision of this title to the contrary, the  
12 ~~registration~~ license of a consumer litigation funding company that fails to pay  
13 the annual renewal fee or fails to satisfy all of the minimum ~~registration~~ license  
14 renewal requirements by December 1 shall automatically expire on December  
15 31.

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

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

20 § 2110. REVOCATION, SUSPENSION, TERMINATION, OR

21 NONRENEWAL OF LICENSE; CEASE AND DESIST ORDERS

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

4 \* \* \*

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

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

15 \* \* \*

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

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

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

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

\* \* \*

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

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

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

## § 2260. ANNUAL REPORTS

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

\* \* \*

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

## § 2503. DEFINITIONS

As used in this chapter:

\* \* \*

1           (8) “Eligible rating” ~~shall mean~~ means a credit rating of any of the three  
2           highest rating categories provided by an eligible rating service, whereby each  
3           category may include rating category modifiers such as “plus” or “minus” for  
4           S&P, or the equivalent for any other eligible rating service. Long-term credit  
5           ratings are deemed eligible if the rating is equal to A- or higher by S&P, or the  
6           equivalent from any other eligible rating service. Short-term credit ratings are  
7           deemed eligible if the rating is equal to or higher than A-2 or SP-2 by S&P, or  
8           the equivalent from any other eligible rating service. In the event that ratings  
9           differ among eligible rating services, the highest rating shall apply when  
10          determining whether a security bears an eligible rating.

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

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

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

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

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

10           ~~(11)~~(12) “Licensee” means a person licensed under this chapter.

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

15           ~~(13)~~(14) “Mobile location” means a vehicle or a movable facility where  
16           check cashing occurs.

17           ~~(14)~~(15) “Monetary value” means a medium of exchange, whether or  
18           not redeemable in money.

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

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

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

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

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

7           or

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

10                   (iv) virtual-currency business activity.

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

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

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

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

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

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

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

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

21                   (A) redeemable by the issuer only for goods or services provided by  
22          the issuer or its affiliate or franchisees of the issuer or its affiliate, except to the



1 extent required by applicable law to be redeemable in cash for its cash value;

2 or

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

5 ~~(21)~~(22) “Payroll processing services” means receiving money for  
6 transmission pursuant to a contract with a person to deliver wages or salaries,  
7 make payment of payroll taxes to state and federal agencies, make payments  
8 relating to employee benefit plans, or make distributions of other authorized  
9 deductions from wages or salaries. The term does not include an employer  
10 performing payroll processing services on its own behalf or on behalf of its  
11 affiliate.

12 ~~(22)~~(23) “Prevailing market value” means the value to buy or sell a  
13 particular virtual currency, as applicable, quoted on a virtual currency  
14 exchange operated by a licensee based in the United States, with sufficient  
15 volume to reflect the prevailing market price of such virtual currency.

16 ~~(23)~~(24) “Receiving money for transmission” or “money received for  
17 transmission” means receiving money or monetary value in the United States  
18 for transmission within or outside the United States by electronic or other  
19 means.

20 ~~(24)~~(25) “Stored value” means monetary value representing a claim  
21 against the issuer evidenced by an electronic or digital record, and that is  
22 intended and accepted for use as a means of redemption for money or

1 monetary value, or payment for goods or services. The term includes “prepaid  
2 access” as defined by 31 C.F.R. § 1010.100, as may be amended.

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

7 ~~(25)~~(26) “Tangible net worth” means the aggregate assets of a licensee  
8 excluding all intangible assets, less liabilities, as determined in accordance  
9 with ~~United States~~ U.S. generally accepted accounting principles.

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

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

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

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

19 ~~(26)~~(28) “U.S. dollar equivalent of virtual currency” means the  
20 prevailing market value of a particular virtual currency in United States dollars  
21 for a particular date or period specified in this chapter.

1           ~~(27)~~(29)(A) “Virtual currency” means a digital representation of value

2           that:

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

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

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

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

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

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

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

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

1           ~~(28)~~(30) “Virtual-currency administration” means:

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

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

8           ~~(29)~~(31) “Virtual-currency business activity” means:

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

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

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

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

1           ~~(30)~~(32) “Virtual-currency control-services vendor” means a person that  
2           has control of virtual currency solely under an agreement with a person that, on  
3           behalf of another person, assumes control of virtual currency.

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

10          ~~(31)~~(34) “Virtual-currency kiosk operator” means a person that offers,  
11          facilitates, or engages in, in whole or in part, directly or indirectly, virtual-  
12          currency business activity via a ~~money transmission~~ virtual-currency kiosk  
13          located in this State or a person that owns, operates, or manages a ~~money~~  
14          ~~transmission~~ virtual-currency kiosk located in this State ~~through which virtual-~~  
15          ~~currency business activity is offered.~~

16          ~~(32)~~(35) “Virtual-currency storage” means:

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

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

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

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

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

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

12 § 2506. APPLICATION FOR LICENSE; ADDITIONAL INFORMATION

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

15 \* \* \*

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

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

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

2 § 2507. MONEY TRANSMISSION KIOSK REGISTRATION

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

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

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

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

\* \* \*

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

## § 2519. ACTIVITIES OF CHECK CASHERS AND CURRENCY

## EXCHANGES

(a) Check cashing.

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

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



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

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

2 § 2573. CONDITIONS PRECEDENT TO ENGAGING IN VIRTUAL-  
3 CURRENCY BUSINESS ACTIVITY

4 \* \* \*

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

7 \* \* \*

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

9 § 2571. DEFINITIONS

10 As used in this subchapter:

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

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

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

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

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

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

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

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

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

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

10          ~~(7)~~(6) “New customer” means a consumer who:

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

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

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

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

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

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

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

Sec. 15. REPEAL

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

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

§ 10201. STATEMENT OF POLICY ON FINANCIAL PRIVACY

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

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

§ 10202. DEFINITIONS

As used in this subchapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 § 10203. DISCLOSURE OF FINANCIAL RECORDS PROHIBITED

21 Except as otherwise expressly provided in this subchapter, a ~~financial~~  
22 ~~institution~~ regulated entity, its officers, employees, agents, and directors shall

1 not disclose to any person any financial information relating to a customer.

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

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

5 § 10204. EXCEPTIONS

6 This subchapter does not prohibit any of the activities listed in this section.

7 This section shall not be construed to require any ~~financial institution~~ regulated  
8 entity to make any disclosure not otherwise required by law. This section shall  
9 not be construed to require or encourage any ~~financial institution~~ regulated  
10 entity to alter any procedures or practices not inconsistent with this subchapter.

11 This section shall not be construed to expand or create any authority in any  
12 person or entity other than a ~~financial institution~~ regulated entity.

13 \* \* \*

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

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

20 (8) The disclosure of information to a collection agency, its employees  
21 or agents, or to any person engaged by the ~~financial institution~~ regulated entity

1 to assist in recovering an amount owed to the ~~financial institution~~ regulated  
2 entity, if such disclosure is made in the furtherance of recovering such amount.

3 \* \* \*

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

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

14 (15) The exchange, in the regular course of business, of information  
15 between a ~~financial institution~~ regulated entity and a mercantile agency,  
16 provided such exchange is solely for the purpose of reporting to third parties  
17 on the credit rating or creditworthiness of any business and is in compliance  
18 with the Vermont Fair Credit Reporting Act, 9 V.S.A. chapter 63, subchapter  
19 3, and the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.

20 \* \* \*

21 (19) Disclosure requested pursuant to subpoena, provided that no  
22 disclosure shall be made until 14 days after the ~~financial institution~~ regulated



1 entity has notified the customer that financial information has been requested  
2 by subpoena. Such notice shall be served by first-class mail to the customer at  
3 the most recent address known to the ~~financial institution~~ regulated entity. The  
4 provisions of this subdivision shall not apply where the subpoena is issued by  
5 or on behalf of a regulatory, criminal, or civil law enforcement agency.

6 (20) Disclosure required by order of court.

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

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

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

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

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

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

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

13          § 10205. PENALTIES

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

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

21          § 10206. LEAD SOLICITATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 § 10301. COMMUNITY REINVESTMENT REPORTS

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

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

19 § 10402. LENDING REPORTS, DISCLOSURES, AND STANDARDS

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

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

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

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

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

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

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

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

21 (2) “Applicant” means any person who applies to a ~~financial~~ lending  
22 institution directly for an extension, renewal, or continuation of credit or

1 applies to a ~~financial~~ lending institution indirectly by use of an existing credit  
2 plan for an amount exceeding a previously established credit limit.

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

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

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

20 (6) “Disability” applied to an applicant means a person with a disability  
21 as defined in 21 V.S.A. § 495d(5). As used in this section, an applicant with a

1 disability does not include an alcoholic or drug abuser who, by reason of  
2 current alcohol or drug use, constitutes an unacceptable credit risk.

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

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

9 (d) Notification requirements.

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

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

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



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

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

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

## § 10404. HOME LOAN ESCROW ACCOUNTS

\* \* \*

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

\* \* \*

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

## § 10405. DEBT PROTECTION AGREEMENTS

\* \* \*

(c)(1) Requirements. In the case of credit granted by a seller or retail seller of motor vehicles or of other goods and services that is not required to be licensed under chapter 73 of this title, such retail seller or seller of motor

1 vehicles or of other goods and services shall, within 15 business days, sell,  
2 assign, or otherwise transfer the loan agreement, motor vehicle installment  
3 contract, or retail sales installment contract, together with the related debt  
4 protection agreement in accordance with the provisions of subdivision (2) of  
5 this subsection.

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

12 \* \* \*

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

14 § 10504. BASIC BANKING RULES

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

1 Vermont financial institution and that any such rules shall not adversely affect  
2 other consumers of banking services.

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

4 § 10505. RETURNED CHECK CHARGES

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

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

10 § 10601. APPLICATION

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

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

16 § 10701. DEFINITIONS

17 As used in this subchapter: the term

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

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

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

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

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

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

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

11       § 10702. COUNSELING

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

1 providing counseling; and shall be maintained by the holder of the reverse  
2 mortgage throughout the term of the reverse mortgage loan.

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

4 § 10703. ANNUITIES

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

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

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

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

16 § 10704. LIMITATION ON REVERSE MORTGAGE LOAN PROGRAMS

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

1 by the Federal Housing Administration or other similar federal agency or is a  
2 government sponsored enterprise reverse mortgage loan.

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

4 § 11101. DEFINITIONS

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

9 \* \* \*

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

13 \* \* \*

14 \* \* \* Banking; Financial and Related Institutions \* \* \*

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

16 § 12201. MEETINGS

17 (a) The governing body of a Vermont financial institution shall meet at  
18 ~~least monthly, except as otherwise provided in this section~~ as often as is  
19 necessary to ensure proper oversight of the financial institution but not less  
20 than four times per year, at least once each quarter. ~~A governing body that has~~  
21 ~~appointed an executive committee that meets during the months in which the~~  
22 ~~governing body does not meet shall meet at least six times a year, including~~

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

6 \* \* \*

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

8 § 13402. MEETINGS OF THE GOVERNING BODY

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

20 \* \* \*

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

2 § 14301. LOAN AUTHORITY

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

7 (b) Written loan policy.

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

12 (A) loan portfolio mix and diversification standards and, if  
13 applicable, derivative transaction portfolio mix and diversification standards;

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

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

18 (D) documentation and approval requirements to monitor compliance  
19 with lending policies; and

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



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

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

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

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

19           (A) ~~In the case of obligations of one person, the~~ The proceeds will of  
20 a loan, derivative transaction, or extension of credit to one person shall be  
21 deemed to be used for the direct benefit of another person and ~~will~~ shall be  
22 attributed to the other person when the proceeds, or assets purchased with the

1 proceeds, are transferred to another person, other than in a bona fide arm's  
2 length transaction where the proceeds are used to acquire property, goods, or  
3 services.

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

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

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

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

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

20 (II) For purposes of this subdivision (d)(1)(B)(ii), control is  
21 deemed to exist when a person directly or indirectly, or acting through or  
22 together with one or more persons, owns, controls, or has the power to vote 25

1 percent or more of any class of voting securities of another person; controls, in  
2 any manner, the election of a majority of the directors, trustees, or other  
3 persons exercising similar functions of another person; or has the power to  
4 exercise a controlling influence over the management or policies of another  
5 person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10          (H) ~~Any~~ any portion of any indebtedness that the U.S. government,  
11          or an agency or instrumentality of the United States, unconditionally agreed to  
12          purchase or has unconditionally guaranteed as to payment of both principal and  
13          interest, including loans insured or guaranteed under the National Housing Act,  
14          12 U.S.C. Chapter 13, or the Servicemen's Readjustment Act of 1944, 38  
15          U.S.C. Chapter 37, as may be amended;

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

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



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

6 \* \* \*

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

8 § 32204. JOINT DEPOSITS

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

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

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

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

20 § 32301. LOAN AUTHORITY

21 (a) Unless otherwise restricted by applicable law, rule, or regulation, a  
22 credit union may lend to its members, including where a coborrower is a



1 nonmember, for such purposes as prescribed by the governing body. ~~The~~  
2 ~~governing body shall establish a written loan policy in accordance with the~~  
3 ~~requirements of this section.~~

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

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

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

11 (A) loan portfolio mix and diversification standards;

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

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

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

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

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

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

7 \* \* \*

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

10 \* \* \*

11 (H) any portion of any indebtedness that the U.S. government, or an  
12 agency or instrumentality of the United States, unconditionally agreed to  
13 purchase or has unconditionally guaranteed as to payment of both principal and  
14 interest, including loans insured or guaranteed under the National Housing Act,  
15 12 U.S.C. Chapter 13, or the Servicemen's Readjustment Act of 1944, 38  
16 U.S.C. Chapter 37, as may be amended;

17 \* \* \*

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

19 § 34101. MERGERS

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

\* \* \*

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

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

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

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

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

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

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

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

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

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

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

14 § 201. DEFINITIONS

15 As used in this subchapter:

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

18 (A) cash;

19 (B) wired funds or electronic transfer;

20 (C) certified check;

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

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

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

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

10 \* \* \*

11 \* \* \* Insurance \* \* \*

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

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

15 \* \* \*

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

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

21 § 3561. ANNUAL ~~STATEMENT~~ AND QUARTERLY STATEMENTS

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

21 (b) Each year, in a form and manner prescribed by the Commissioner, each  
22 domestic, foreign, and alien insurer doing business in this State shall file with

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

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

15 (d)(1) At the direction of the Commissioner, each domestic, foreign, and  
16 alien insurance company doing business in this State shall annually submit to  
17 the Commissioner, in a manner and on forms approved by the Commissioner, a  
18 statement of its market conduct performance for the purpose of permitting the  
19 participation of this State in the Market Conduct Annual Statement program of  
20 the ~~National Association of Insurance Commissioners~~ NAIC. The statement  
21 shall be prepared in accordance with the Market Conduct Annual Statement  
22 instructions published by the ~~National Association of Insurance~~



1 ~~Commissioners~~ NAIC, with any useful or necessary modifications or  
2 adaptations thereof required or approved or accepted by the Commissioner for  
3 the type of insurance and kinds of insurers to be reported upon, and as  
4 supplemented by additional information required by the Commissioner.

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

14 ~~(e)(e)~~ The Commissioner shall adopt by rule the Medical Professional  
15 Liability Closed Claim Reporting Model Law of the ~~National Association of~~  
16 ~~Insurance Commissioners~~ NAIC, as may be amended ~~from time to time~~, or in  
17 the Commissioner's discretion a substantially similar rule. Subject to section  
18 22 of this title, information that identifies, directly or indirectly, the closed  
19 claims of a health care facility or a health care provider shall be confidential  
20 and privileged, shall not be made public, shall not be subject to subpoena, and  
21 shall not be subject to discovery or introduction into evidence in any private  
22 civil action.

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

2     § 3811. DEPENDENTS' COVERAGE

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

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

22                     \* \* \*

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

2 § 4724. UNFAIR METHODS OF COMPETITION OR UNFAIR OR  
3 DECEPTIVE ACTS OR PRACTICES DEFINED

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

6 \* \* \*

7 (7) Unfair discrimination; arbitrary underwriting action.

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

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

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

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

22 \* \* \*

\* \* \* Securities \* \* \*

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

§ 5202. EXEMPT TRANSACTIONS

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

\* \* \*

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

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

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

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

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

(E) the issuer is not offering to sell securities pursuant to the exemptions provided by Rule 506 of Regulation D, 17 C.F.R. § 230.506, as may be amended under the Securities Act of 1933, 15 U.S.C. § 77a et seq.

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

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

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

1 ~~renewal fee for each portfolio as long as the registration of those securities~~  
2 ~~remains in effect.~~ The fee is nonrefundable.

3 \* \* \*

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

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

7 § 5602. INVESTIGATIONS AND SUBPOENAS

8 \* \* \*

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

18 \* \* \*

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

20 (C) imposing a civil penalty up to \$15,000.00 for each violation; an  
21 order of rescission, restitution, or disgorgement directed to a person that has  
22 engaged in an act, practice, or course of business constituting a violation of this

1 chapter or the predecessor act or a rule adopted or an order issued under this  
2 chapter or the predecessor act. The court may increase a civil penalty amount  
3 by not more than \$5,000.00 per violation for violations involving a person who  
4 is a vulnerable adult as defined in 33 V.S.A. § 6902(14)(34). The limitations  
5 on civil penalties contained in this subdivision shall not apply to settlement  
6 agreements; and

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

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

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

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

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

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

22 (5) the deterrent effect of the penalty;

- (6) the economic resources of the respondent;
- (7) the respondent's record of compliance; and
- (8) any other aggravating or mitigating circumstances.

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

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

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

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

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

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

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

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

(b) Definitions. As used in this section:

(1) "Claimant" means a person who files an application for restitution  
assistance under this section ~~on behalf of a victim. The claimant and the~~  
~~victim may be the same but do not have to be the same. The term includes the~~



1 ~~named party in a restitution award in a final order, the executor of a named~~  
2 ~~party in a restitution award in a final order, and the heirs and assigns of a~~  
3 ~~named party in a restitution award in a final order.~~

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

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

12 (3)(4) “Fund” means the Vermont Financial Services Education and  
13 Victim Restitution Special Fund created by this section.

14 (4)(5) “Securities violation” means a violation of this chapter and any  
15 related administrative rules.

16 (5)(6) “Victim” means a person who was awarded restitution in a final  
17 order.

18 (6)(7) “Vulnerable person adult” means:

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

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

1 (c) Eligibility.

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

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

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

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

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

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

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

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

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

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

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

21 or

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

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

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

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

7            (3) Except as provided in subdivision (4) of this subsection, the  
8        maximum award from the Fund for each claimant shall be the lesser of  
9        \$25,000.00 or 25 percent of the amount of unpaid restitution awarded in a final  
10       order.

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

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

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

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

21                (C) any other information provided in or with an application for  
22        restitution assistance that alone, or in combination with the other information

1 provided in or with the application, would allow a person to identify the  
2 claimant or victim with reasonable certainty.

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

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

19 ~~(h)~~(g) State's liability for award. The Commissioner shall have the  
20 discretion to suspend applications and ~~awards~~ determine award amounts based  
21 on the solvency of the Fund and the designation of monies in the Fund to the

1 other purposes established for the Fund. The State shall not be liable for any  
2 determination made under this section.

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

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

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

9 (i) Forfeiture of restitution award.

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

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

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

19 \* \* \* Miscellaneous Housekeeping \* \* \*

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

21 § 19. FINANCIAL INSTITUTION SUPERVISION FUND; FEES AND

22 DEPARTMENTAL EXPENSES

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

4 \* \* \*

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

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

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

1      Sec. 56. REPEALS

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

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

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

8      § 3317. INSURANCE REGULATORY AND SUPERVISION FUND

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

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

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

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

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

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

9        § 5411. POSTREGISTRATION REQUIREMENTS

10       (a) Subject to ~~15 U.S.C. § 78o(h)~~ 15 U.S.C. § 78o(i) or ~~15 U.S.C. § 80b-22~~  
11       15 U.S.C. § 80b-18a, a rule adopted or order issued under this chapter may  
12       establish minimum financial requirements for broker-dealers registered or  
13       required to be registered under this chapter and investment advisers registered  
14       or required to be registered under this chapter.

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



1 (c) Subject to ~~15 U.S.C. § 78o(h)~~ 15 U.S.C. § 78o(i) or ~~15 U.S.C. § 80b-22~~  
2 15 U.S.C. § 80b-18a:

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

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

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

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

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

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

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

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

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

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

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

1 may require continuing education for an individual registered under section  
2 5404.

3 \* \* \* Effective Date \* \* \*

4 Sec. 59. EFFECTIVE DATE

5 This act shall take effect on July 1, 2026.

6  
7  
8  
9 (Committee vote: \_\_\_\_\_)

10 \_\_\_\_\_

11 Representative \_\_\_\_\_

12 FOR THE COMMITTEE