

1 H.137

2 An act relating to the regulation of insurance products and services

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

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

5 § 23. CONFIDENTIALITY OF INVESTIGATION AND EXAMINATION
6 REPORTS

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

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

20 (c) The Commissioner may, in ~~his or her~~ the Commissioner's discretion,
21 disclose or publish or authorize the disclosure or publication of any such

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

8 (d) For the purposes of this section, records of investigations and records
9 and reports of examinations shall include joint examinations by the
10 Commissioner and any other supervisory agency. Records of investigations
11 and reports of examinations shall also include records of examinations and
12 investigations conducted by:

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

14 (2) any agency of any foreign government with supervisory jurisdiction
15 over any person subject to the jurisdiction of the Department, when such
16 records are considered confidential by such agency or foreign government and
17 the records are in the possession of the Commissioner.

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

19 § 3303. MUTUAL COMPANIES; DIRECTORS, CHARTER PROVISIONS

20 AS TO

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

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

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

16 An insurer may adopt by reference, with or without deviation or modification,
17 provided that said deviation or modification is readily identifiable, the rates,
18 supplementary rate information, and supporting information filed by another
19 insurer or an advisory or service organization with which it is affiliated;
20 provided, however, such an adoption shall not relieve an insurer from any
21 other requirements of this chapter.

1 Sec. 4. 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 * * *

5 (23) Affordable housing; unfair discrimination.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (iii) Secured by a trust fund in the United States for the benefit of
2 policyholders and claimants or funded by an irrevocable letter of credit or
3 other arrangement that is acceptable to the Commissioner. The Commissioner
4 may require the agency captive insurance company to increase the funding of
5 any security arrangement established under this subdivision. If the form of
6 security is a letter of credit, the letter of credit shall be issued or confirmed by a
7 bank approved by the Commissioner. A trust maintained pursuant to this
8 subdivision shall be established in a form and upon terms approved by the
9 Commissioner.

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

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

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

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

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

3 (8) Any captive insurance company may provide excess workers'
4 compensation insurance to its parent and affiliated companies, unless
5 prohibited by the federal law or laws of the state having jurisdiction over the
6 transaction. Any captive insurance company, unless prohibited by federal law,
7 may reinsure workers' compensation of a qualified self-insured plan of its
8 parent and affiliated companies.

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

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

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

16 (d) Within 30 days after commencing business, each captive insurance
17 company shall file with the Commissioner a statement under oath of its
18 president and secretary or, in the case of a captive insurance company formed
19 as a limited liability company or as a reciprocal insurer, of two individuals
20 authorized by the governing board certifying that the captive insurance

1 company possessed the requisite unimpaired, paid-in capital and surplus prior
2 to commencing business.

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

4 § 6006. FORMATION OF CAPTIVE INSURANCE COMPANIES IN THIS
5 STATE

6 * * *

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

14 (i) Captive insurance companies formed under the provisions of this
15 chapter:

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

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

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

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

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

11 (2) The resolution of the board of directors of each insurer approving the
12 agreement shall direct that the agreement be submitted to a vote of the
13 shareholders, members, or policyholders, as the case may be, of each insurer
14 entitled to vote in respect thereof at a designated meeting thereof, or via
15 unanimous written consent of such shareholders, members, or policyholders in
16 lieu of a meeting. Notice of the meeting shall be given as provided in the
17 bylaws, charter, or articles of association, or other governance document, as
18 the case may be, of each insurer and shall specifically reflect the agreement as
19 a matter to be considered at the meeting.

20 (3) The agreement of merger so approved shall be submitted to a vote of
21 the shareholders, members, or policyholders, as the case may be, of each

1 insurer entitled to vote in respect thereof at the meeting directed by the
2 resolution of the board of directors of such company approving the agreement,
3 and the agreement shall be unanimously adopted by the shareholders,
4 members, or policyholders, as the case may be.

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

7 (A) Upon the execution of the agreement of merger by all of the
8 insurers parties thereto, there shall be executed and filed, in the manner
9 hereafter provided, articles of merger setting forth the agreement of merger, the
10 signatures of the several insurers parties thereto, the manner of its adoption,
11 and the vote by which adopted by each insurer.

12 (B) The articles of merger shall be signed on behalf of each insurer
13 by a duly authorized officer or, in the case of an insurer formed as a limited
14 liability company or as a reciprocal insurer, by an individual authorized by the
15 governing board, in such multiple copies as shall be required to enable the
16 insurers to comply with the provisions of this subchapter with respect to filing
17 and recording the articles of merger, and shall then be presented to the
18 Commissioner.

19 (C) The Commissioner shall approve the articles of merger if ~~he or~~
20 ~~she~~ the Commissioner finds that the merger will promote the general good of
21 the State in conformity with those standards set forth in section 3305 of this

1 title. If ~~he or she~~ the Commissioner approves the articles of merger, ~~he or she~~
2 the Commissioner shall issue a certificate of approval of merger.

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

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

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

13 (b) Prior to March 1 of each year, and prior to March 15 of each year in the
14 case of pure captive insurance companies, association captive insurance
15 companies, sponsored captive insurance companies, industrial insured captive
16 insurance companies, or agency captive insurance companies, each captive
17 insurance company shall submit to the Commissioner a report of its financial
18 condition, verified by oath of two of its executive officers or, in the case of a
19 captive insurance company formed as a limited liability company or as a
20 reciprocal insurer, of two individuals authorized by the governing board. Each
21 captive insurance company shall report using generally accepted accounting

1 principles, statutory accounting principles, or international financial reporting
2 standards unless the Commissioner requires, approves, or accepts the use of
3 any other comprehensive basis of accounting, in each case with any
4 appropriate or necessary modifications or adaptations thereof required or
5 approved or accepted by the Commissioner for the type of insurance and kinds
6 of insurers to be reported upon, and as supplemented by additional information
7 required by the Commissioner. As used in this section, statutory accounting
8 principles shall mean the accounting principles codified in the NAIC
9 Accounting Practices and Procedures Manual. Upon application for
10 admission, a captive insurance company shall select, with explanation, an
11 accounting method for reporting. Any change in a captive insurance
12 company's accounting method shall require prior approval. Except as
13 otherwise provided, each risk retention group shall file its report in the form
14 required by subsection 3561(a) of this title, and each risk retention group shall
15 comply with the requirements set forth in section 3569 of this title. The
16 Commissioner shall by rule propose the forms in which pure captive insurance
17 companies, association captive insurance companies, sponsored captive
18 insurance companies, and industrial insured captive insurance companies shall
19 report. Subdivision 6002(c)(3) of this title shall apply to each report filed
20 pursuant to this section, except that such subdivision shall not apply to reports
21 filed by risk retention groups.

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

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

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

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

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

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

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

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

2 § 6045. BRANCH CAPTIVE REPORTS

3 Prior to March 15 of each year, or with the approval of the Commissioner
4 within 75 days after its fiscal year-end, a branch captive insurance company
5 shall file with the Commissioner a copy of all reports and statements required
6 to be filed under the laws of the jurisdiction in which the alien captive
7 insurance company is formed, verified by oath of two of its executive officers
8 or, in the case of a branch captive insurance company formed as a limited
9 liability company or as a reciprocal insurer, of two individuals authorized by
10 the governing board. If the Commissioner is satisfied that the annual report
11 filed by the alien captive insurance company in its domiciliary jurisdiction
12 provides adequate information concerning the financial condition of the alien
13 captive insurance company, the Commissioner may waive the requirement for
14 completion of the captive annual statement for business written in the alien
15 jurisdiction.

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

17 (2) The special purpose financial insurance company shall submit an
18 affidavit of its president, a vice president, the treasurer, or the chief financial
19 officer or, in the case of a special purpose financial insurance company formed
20 as a limited liability company or as a reciprocal insurer, of an individual

1 authorized by the governing board that includes the following statements, to
2 the best of such person’s knowledge and belief after reasonable inquiry:

3 (A) the proposed organization and operation of the special purpose
4 financial insurance company comply with all applicable provisions of this
5 chapter;

6 (B) the special purpose financial insurance company’s investment
7 policy reflects and takes into account the liquidity of assets and the reasonable
8 preservation, administration, and management of such assets with respect to
9 the risks associated with the reinsurance contract and the insurance
10 securitization transaction; and

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

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

16 (g) This subsection establishes governance standards for a risk retention
17 group.

18 (1) As used in this subsection:

19 (A) “Board of directors” or “board” means the governing body of a
20 risk retention group elected by risk retention group members to establish

1 policy, elect or appoint officers and committees, and make other governing
2 decisions.

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

7 (C)~~(H)~~ “Independent director” means a director who does not have a
8 material relationship with the risk retention group. A director has a material
9 relationship with a risk retention group if ~~he or she~~ the director, or a member of
10 ~~his or her~~ the director’s immediate family:

11 ~~(H)~~(i) In any 12-month period, receives from the risk retention
12 group, or from a consultant or service provider to the risk retention group,
13 compensation or other item or items of value in an amount equal to or greater
14 than five percent of the risk retention group’s gross written premium or two
15 percent of the risk retention group’s surplus, as measured at the end of any
16 fiscal quarter falling in such 12-month period, whichever is greater. This
17 provision also applies to compensation or items of value received by any
18 business with which the director is affiliated. Such material relationship shall
19 continue for one year after receipt of the item or items of value or the
20 compensation falls below the threshold established in this subdivision.

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

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

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

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

11 ~~(CC)~~(III) the governing board of the entity includes executive
12 officers of the risk retention group, unless a majority of the membership of
13 such entity's governing board is composed of individuals who are members of
14 the governing board of the risk retention group.

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

17 ~~(ii)~~(iv) Notwithstanding ~~subdivision (i)~~ subdivisions (i)–(iii) of
18 this subdivision (g)(1)(C), a director who is a direct or indirect owner of the
19 risk retention group is deemed to be independent; and an officer, director, or
20 employee of an insured of the risk retention group is deemed to be

1 independent, unless some other relationship of such officer, director, or
2 employee qualifies as a material relationship.

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

14 * * *

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

20 Sec. 15. 8 V.S.A. § 2504 is amended to read:

21 § 2504. EXEMPTIONS

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

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

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

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

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

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

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

2 § 42. PERMITTED CHARGES

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

5 * * *

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

8 ~~and~~

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

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

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

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

20 HOLD

1 (a) The Commissioner of Financial Regulation or designee shall study
2 regulatory models that would allow a financial institution to take measures to
3 protect account holders from fraudulent transactions and shall recommend a
4 model for legislative consideration. The study shall include a review of
5 regulatory models enacted or proposed in other jurisdictions.

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

11 (c) Among other things, the study shall include recommendations regarding
12 the following:

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

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

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

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

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

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

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

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

10 (d) On or before November 15, 2025, the Commissioner shall provide a
11 status report on the Commissioner's preliminary findings and
12 recommendations to the Chair of the House Committee on Commerce and
13 Economic Development and the Chair of the Senate Committee on Finance
14 and, on or before January 15, 2026, shall submit a final report in draft form to
15 the House Committee on Commerce and Economic Development and the
16 Senate Committee on Finance.

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

18 (a) The Commissioner of Financial Regulation or designee shall study
19 regulatory models for providing protections and remedies for victims of
20 coerced debt and shall recommend a model appropriate for Vermont. In
21 particular, the Commissioner shall review the Model State Coerced Debt Law

1 prepared by the National Consumer Law Center in May of 2024, as well as
2 laws enacted or proposed in other jurisdictions.

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

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

10 (1) a definition of coerced debt;

11 (2) whether coerced debt should include both secured and unsecured
12 debt;

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

15 (4) procedures a creditor must follow regarding the investigation of an
16 allegation of coerced debt, including ceasing collection efforts and notifying

1 the Department of Financial Regulation, the Office of the Attorney General,
2 and other law enforcement personnel, if appropriate;

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

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

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

8 (d) On or before January 15, 2026, the Commissioner shall report the
9 Commissioner's findings and recommendations in draft form to the House
10 Committee on Commerce and Economic Development and the Senate
11 Committee on Finance.

12 Sec. 19. RECOMMENDATION REGARDING INSURANCE AND
13 GENETIC PRIVACY

14 On or before November 15, 2025, and for the purpose of preventing unfair
15 genetic discrimination and safeguarding an individual's genetic privacy, the
16 Commissioner of Financial Regulation shall provide a recommendation to the
17 House Committee on Commerce and Economic Development and the Senate
18 Committee on Finance on whether Vermont should enact a law prohibiting or
19 limiting an insurance company's access to a consumer's personalized genetic
20 report that is not part of the consumer's medical record. Among other things,
21 the Commissioner shall consider whether to require that an insurance company

1 obtain consumer consent prior to the disclosure of genetic information
2 obtained from a direct-to-consumer entity to an insurance company, including
3 any company that offers health, long-term care, life, or disability insurance.

4 Sec. 20. 8 V.S.A. § 4062b is amended to read:

5 § 4062b. ~~MEDICARE SUPPLEMENTAL HEALTH SUPPLEMENT~~
6 INSURANCE RATE REVIEW

7 (a) Within five business days after receiving any request to increase the
8 premium rate for a Medicare supplement insurance policy from the health
9 insurance company, hospital or medical service organization, or health
10 maintenance organization issuing the policy, the Department shall post
11 information about the rate filing on the Department's website, including:

12 (1) the name of the health insurance company, hospital or medical
13 service organization, or health maintenance organization requesting the rate
14 increase;

15 (2) the overall composite average rate increase requested;

16 (3) the increase requested by plan type;

17 (4) the date on which the proposed increase would take effect;

18 (5) the System for Electronic Rate and Form Filing (SERFF) tracking
19 number associated with the filing and a web address for accessing the filing
20 electronically; and

1 (6) instructions for submitting public comments and the deadline for
2 doing so.

3 **(b)** Within five business days ~~of~~ after receiving a request for approval of
4 any composite average rate increase in excess of ~~three~~ 10 percent, or any other
5 coverage changes ~~which~~ that the Commissioner determines will have a
6 comparable impact on cost or availability of coverage for a Medicare
7 ~~supplemental~~ supplement insurance policy issued by any ~~group or nongroup~~
8 health insurance company, hospital or medical service organization, or health
9 maintenance organization, with 5,000 or more total lives in the Vermont
10 Medicare supplement insurance market, the Commissioner shall notify the
11 Department of Disabilities, Aging, and Independent Living and the Office of
12 the Health Care Advocate of the proposed premium increase. A composite
13 average rate is the enrollment-weighted average rate increase of all plans
14 offered by a carrier.

15 ~~(b)~~**(c)** Within five business days after receiving notification pursuant to
16 subsection ~~(a)~~**(b)** of this section, the Department of Disabilities, Aging, and
17 Independent Living shall inform the members of the Advisory Board
18 established pursuant to 33 V.S.A. § 505 of the proposed premium increase.

19 ~~(e)~~**(d)**(1) The Commissioner shall not approve any request to increase
20 Medicare ~~supplemental~~ supplement insurance premium rates unless the amount
21 of the rate increase complies with the statutory standards for approval under

1 sections 4062, 4513, 4584, and 5104 of this title. Any approved rate increase
2 shall not be based on an unreasonable change in loss ratio from the previous
3 year, unless the Commissioner makes written findings that such change is
4 necessary to prevent a substantial adverse impact on the financial condition of
5 the insurer. In acting on such rate increase requests, the Commissioner may
6 deny the request, approve the rate increase as requested, or approve a rate
7 increase in an amount different from the increase requested. A decision by the
8 Commissioner other than an approval of the rate requested may be appealed by
9 the insurer, provided that the burden of proof shall be on the insurer to show
10 that the approved rate does not meet the statutory standards established under
11 this subsection.

12 (2) Before acting on the rate increase requested, the Commissioner may
13 make such examination or investigation as ~~he or she~~ the Commissioner deems
14 necessary, ~~including where applicable the review process set forth in~~
15 ~~subdivision (3) of this subsection.~~

16 (3) ~~In reviewing any Medicare supplement rate increase for which an~~
17 ~~independent analysis has been performed pursuant to 33 V.S.A. § 6706 and~~
18 ~~wherein the carrier's requested composite average increase, the independent~~
19 ~~expert's recommended composite average rate increase, or the Department~~
20 ~~actuary's recommended composite average rate increase differ by two~~
21 ~~percentage points or more, the Commissioner shall hold a public hearing where~~

1 ~~the insurer, the Department's actuary, the independent expert, any intervenor,~~
2 ~~and the public will have the opportunity to present written and oral testimony~~
3 ~~and will be available to answer questions of the Commissioner and those~~
4 ~~present. The hearing shall be noticed and held at a time and place so as to~~
5 ~~facilitate public participation, and shall be recorded and become part of the~~
6 ~~record before the Commissioner. In the Commissioner's discretion, the~~
7 ~~hearing may be conducted through interactive. If the carrier's requested~~
8 ~~composite average increase, the independent expert's recommended composite~~
9 ~~average increase, or the Department actuary's recommended composite~~
10 ~~average increase differs by less than two percentage points, the Department~~
11 ~~and the parties shall confer by conference call, or by any other available media,~~
12 ~~to review the rate requests and recommendations. However, a public hearing~~
13 ~~may be held at the Commissioner's discretion for good cause shown.~~

14 (A) For any filing by a health insurance company, hospital or medical
15 service organization, or health maintenance organization with 5,000 or more
16 total lives in the Vermont Medicare supplement insurance market in which the
17 requested composite average rate increase exceeds 10 percent, the

18 Commissioner shall:

19 (i) solicit public comment; and

20 (ii) hold a public hearing in accordance with the Department of

21 Financial Regulation's applicable rules regarding administrative procedures if,

1 not later than 30 days after the rate filing information is posted on the
2 Department's website pursuant to subsection (a) of this section, a hearing is
3 requested by the Department of Disabilities, Aging, and Independent Living;
4 by the Office of the Health Care Advocate; or by not fewer than 25
5 policyholders whose premium rates would be affected by the requested rate
6 increase.

7 (B) For any filing that does not meet the criteria specified in
8 subdivision (A) of this subdivision (3), a public hearing may be held in the
9 Commissioner's discretion.

10 (C) In the Commissioner's discretion, a hearing held pursuant to this
11 subdivision (3) may be conducted through a designated electronic meeting
12 platform.

13 ~~(4) In any review held in accordance with this subsection, the~~
14 ~~Commissioner shall permit intervention by any person that the Commissioner~~
15 ~~determines will materially advance the interests of the insured individuals.~~
16 ~~The intervenor shall have access to, and may use the information of the~~
17 ~~independent expert appointed under 33 V.S.A. § 6706. The reasonable and~~
18 ~~necessary cost of intervention as determined by the Commissioner shall be~~
19 ~~paid by the affected policyholders or certificate holders. The maximum~~
20 ~~payment shall be \$2,500.00 except when waived by the Commissioner for~~
21 ~~good cause shown. The \$2,500.00 maximum amount may be adjusted to~~

1 ~~reflect, at the Commissioner's discretion, appropriate inflation factors.~~ In any
2 review held in accordance with this section, the Commissioner shall permit
3 intervention by any person whom the Commissioner determines will materially
4 advance the interests of the individuals insured under the policy.

5 (5) Nonproprietary, relevant information in any Medicare supplement
6 rate filing, including any analysis by the Department's actuary ~~and the~~
7 ~~independent expert~~, shall be made available to the public upon request.

8 (e) For a Medicare supplement insurance policy with an effective date of
9 January 1, the insurer shall file its premium rate request pursuant to this section
10 not later than July 1 of the preceding year. For a Medicare supplement
11 insurance policy with an effective date other than January 1, the insurer shall
12 file its rate request pursuant to this section not later than six months prior to the
13 effective date of the policy.

14 Sec. 21. REPEAL

15 33 V.S.A. § 6706 (Medicare supplement insurance; independent analysis) is
16 repealed.

17 Sec. 22. 8 V.S.A. § 2577(f) is amended to read:

18 (f) Moratorium. To protect the public safety and welfare and safeguard the
19 rights of consumers, virtual-currency kiosks shall not be permitted to operate
20 in Vermont prior to July 1, ~~2025~~ 2026. This moratorium shall not apply to a

1 virtual-currency kiosk that was operational in Vermont on or before June 30,
2 2024.

3 Sec. 23. EFFECTIVE DATES

4 This act shall take effect on July 1, 2025, except that Secs. 20 and 21
5 (Medicare supplement insurance) shall take effect on January 1, 2026.