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H.648

An act relating to banking, insurance, and securities

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

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

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

§ 2102. APPLICATION FOR LICENSE

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

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

* * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (6) For an application for a mortgage loan originator license, the
2 applicant has satisfied the prelicense education requirement of section 2204a of
3 this title and the prelicensing testing requirement of section 2204b of this title.

4 * * *

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

6 § 2107. CHANGE OF CONTROL

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

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

20 (c) The Commissioner shall approve a request for change of control under
21 subsection (a) of this section if, after investigation, the Commissioner

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

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

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

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

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

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

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

3 (f) Regarding the control of a money transmitter licensee, the following
4 persons are exempt from the prefiling requirements of subsection (a) of this
5 section and do not need the Commissioner's approval with respect to the
6 following specific actions:

7 (1) a person that acts as a proxy for the sole purpose of voting at a
8 designated meeting of the security holders or holders of voting interests of a
9 money transmitter licensee or person in control of a money transmitter
10 licensee;

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

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

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

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

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

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

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

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

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

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

2 § 2109. ANNUAL RENEWAL OF LICENSE

3 (a) On or before December 1 of each year, every licensee shall renew its
4 license or registration for the next succeeding calendar year and shall pay to
5 the Commissioner the applicable renewal of license or registration fee. At a
6 minimum, the licensee or registree shall continue to meet the applicable
7 standards for licensure or registration. At the same time, the licensee or
8 registree shall maintain with the Commissioner any required bond in the
9 amount and of the character as required by the applicable chapter. The annual
10 license or registration renewal fee shall be:

11 * * *

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

14 * * *

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

19 (f) Notwithstanding any other provision of this title to the contrary, the
20 ~~registration~~ license of a consumer litigation funding company that fails to pay
21 the annual renewal fee or fails to satisfy all of the minimum ~~registration~~ license

1 renewal requirements by December 1 shall automatically expire on December
2 31.

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

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

7 § 2110. REVOCATION, SUSPENSION, TERMINATION, OR

8 NONRENEWAL OF LICENSE; CEASE AND DESIST ORDERS

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

12 * * *

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

16 (6) the ~~competence~~, financial condition and responsibility, financial and
17 business experience, competence, character, or general fitness of the licensee,
18 person in control of a licensee, or key individual does not command the
19 confidence of the community; does not warrant belief that the business will be
20 operated honestly, fairly, and efficiently pursuant to the applicable chapter of

1 this title; or otherwise indicates that it is not in the public interest to permit the
2 person to provide services in this State;

3 * * *

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

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

10 (3) The Commissioner shall reconsider the renewal request in light of
11 the licensee's request for reconsideration and response and shall issue a
12 decision pursuant to the standards in subsection (a) of this section not later than
13 60 days after the date of the request.

14 (4) The licensee may appeal the Commissioner's decision by filing an
15 action in the Civil Division of the Superior Court of Washington County not
16 later than 15 days after the date of the Commissioner's decision.

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

18 § 2117. EXAMINATIONS AND INVESTIGATIONS; EXAMINATION

19 FEES

20 * * *

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

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

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

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

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

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

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

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

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

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

16 (11) “In this State” means at a physical location within Vermont for a
17 transaction requested in person. For a transaction requested electronically or
18 by phone, the provider of money transmission may determine if the person
19 requesting the transaction is “in this State” by relying on other information
20 provided by the person regarding the location of the individual’s residential
21 address or a business entity’s principal place of business or other physical

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

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

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

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

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

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

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

19 ~~(17)~~(18)(A) “Money transmission” means any of the following:

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

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

2 ~~or~~

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

5 (iv) virtual-currency business activity.

6 (B) The term “money transmission” includes payroll processing
7 services.

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

10 ~~(18)~~(19) “Money transmission kiosk” means an automated, unstaffed
11 electronic machine ~~that allows users to engage in~~ through which money
12 transmission, ~~including any machine that is capable of accepting or dispensing~~
13 ~~cash in exchange for virtual currency~~ is offered, facilitated, or engaged in, in
14 whole or in part, directly or indirectly. The term includes any virtual-currency
15 kiosk. The term does not include consumer cell phones and other similar
16 personal devices of consumers.

17 ~~(19)~~(20)(A) “Outstanding money transmission obligations” shall be
18 established and extinguished in accordance with applicable state law and ~~shall~~
19 ~~mean~~ means:

20 (i) any payment instrument or stored value issued or sold by the
21 licensee to a person located in the United States or reported as sold by an

1 authorized delegate of the licensee to a person that is located in the United
2 States that has not yet been paid or refunded by or for the licensee, or
3 escheated in accordance with applicable abandoned property laws; or

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

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

12 ~~(20)~~(21) “Payment instrument” means a written or electronic check,
13 draft, money order, traveler’s check, or other written or electronic instrument
14 for the transmission or payment of money or monetary value, whether or not
15 negotiable. The term does not include stored value or any instrument that is:

16 (A) redeemable by the issuer only for goods or services provided by
17 the issuer or its affiliate or franchisees of the issuer or its affiliate, except to the
18 extent required by applicable law to be redeemable in cash for its cash value;

19 or

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

1 ~~(21)~~(22) “Payroll processing services” means receiving money for
2 transmission pursuant to a contract with a person to deliver wages or salaries,
3 make payment of payroll taxes to state and federal agencies, make payments
4 relating to employee benefit plans, or make distributions of other authorized
5 deductions from wages or salaries. The term does not include an employer
6 performing payroll processing services on its own behalf or on behalf of its
7 affiliate.

8 ~~(22)~~(23) “Prevailing market value” means the value to buy or sell a
9 particular virtual currency, as applicable, quoted on a virtual currency
10 exchange operated by a licensee based in the United States, with sufficient
11 volume to reflect the prevailing market price of such virtual currency.

12 ~~(23)~~(24) “Receiving money for transmission” or “money received for
13 transmission” means receiving money or monetary value in the United States
14 for transmission within or outside the United States by electronic or other
15 means.

16 ~~(24)~~(25) “Stored value” means monetary value representing a claim
17 against the issuer evidenced by an electronic or digital record, and that is
18 intended and accepted for use as a means of redemption for money or
19 monetary value, or payment for goods or services. The term includes “prepaid
20 access” as defined by 31 C.F.R. § 1010.100, as may be amended.

21 Notwithstanding the foregoing, the term “stored value” does not include a

1 payment instrument or closed loop stored value, or stored value not sold to the
2 public but issued and distributed as part of a loyalty, rewards, or promotional
3 program.

4 ~~(25)~~(26) “Tangible net worth” means the aggregate assets of a licensee
5 excluding all intangible assets, less liabilities, as determined in accordance
6 with ~~United States~~ U.S. generally accepted accounting principles.

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

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

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

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

16 ~~(26)~~(28) “U.S. dollar equivalent of virtual currency” means the
17 prevailing market value of a particular virtual currency in United States dollars
18 for a particular date or period specified in this chapter.

19 ~~(27)~~(29)(A) “Virtual currency” means a digital representation of value
20 that:

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

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

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

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

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

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

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

19 (III) may or may not be redeemable for real-world goods,
20 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

1 instrument, receipt, certificate, or record representing any claim or right to
2 receive, redeem, withdraw, transfer, exchange, or control any virtual currency
3 or amount of virtual currency; or

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

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

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

13 § 2506. APPLICATION FOR LICENSE; ADDITIONAL INFORMATION

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

16 * * *

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

19 (b) For good cause shown and consistent with the purposes of this section,
20 the Commissioner may waive one or more requirements of this section or

1 permit an applicant to submit substituted information in lieu of the required
2 information.

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

4 § 2507. MONEY TRANSMISSION KIOSK REGISTRATION

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

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

20 (c) Each money transmission kiosk shall disclose prominently and
21 conspicuously, using as high a contrast or resolution as any other display or

1 graphics on the money transmission kiosk, prior to the point at which a user of
2 the money transmission kiosk is irrevocably committed to completing any
3 transaction:

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

9 * * *

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

11 § 2519. ACTIVITIES OF CHECK CASHERS AND CURRENCY

12 EXCHANGES

13 (a) Check cashing.

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

19 (2) Before a licensee shall deposit, with any financial institution or
20 credit union, a payment instrument that is cashed by a licensee, each such item
21 shall be endorsed with the actual name under which such licensee is doing

1 business. Additionally, the words “Licensed Check Cashing Business” must
2 be written legibly or stamped immediately after or below the name of the
3 endorser.

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

6 (4) A licensee may not alter or delete any information on any payment
7 instrument cashed.

8 (5) A licensee shall issue a receipt for each check cashing transaction
9 upon request. The receipt shall include, among other matters the licensee may
10 desire to include, the amount of the payment instrument and the total fee
11 charged.

12 (6) A licensee shall not impose any fee or other charge for bad checks
13 other than as expressly permitted under the provisions of 9 V.S.A. §§ 2311 and
14 2312.

15 (7) Within 10 business days after being advised by the payor financial
16 institution or credit union that a payment instrument has been altered, forged,
17 stolen, obtained through fraudulent or illegal means, or negotiated without
18 proper legal authority, or represents the proceeds of illegal activity, the
19 licensee shall notify the police department in the city or town where the
20 payment instrument was cashed. If a payment instrument is returned to the
21 licensee by the payor financial institution or credit union for any of the

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

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

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

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

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

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

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

16 ~~(7)~~(6) “New customer” means a consumer who:

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

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

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

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

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

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

9 * * * Banking; Financial and Related Institutions * * *

10 Sec. 15. REPEAL

11 8 V.S.A. § 10101 (application of consumer protection chapter) is repealed.

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

13 § 10201. STATEMENT OF POLICY ON FINANCIAL PRIVACY

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

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

18 § 10202. DEFINITIONS

19 As used in this subchapter:

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

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

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

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

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

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

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

1 (A) a document that grants signature authority over a deposit or share
2 account;

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

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

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

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

13 (F) evidence of a transaction conducted by electronic or telephonic
14 means.

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

20 ~~(6)~~ “Mercantile agency” means any person who, for monetary fees,
21 dues, or on a cooperative nonprofit basis, regularly engages in whole or in part

1 in the practice of assembling or evaluating business credit information or other
2 information on businesses for the purpose of reporting to third parties on the
3 credit rating or creditworthiness of any business.

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

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

11 § 10203. DISCLOSURE OF FINANCIAL RECORDS PROHIBITED

12 Except as otherwise expressly provided in this subchapter, a ~~financial~~
13 ~~institution~~ regulated entity, its officers, employees, agents, and directors shall
14 not disclose to any person any financial information relating to a customer.

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

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

18 § 10204. EXCEPTIONS

19 This subchapter does not prohibit any of the activities listed in this section.
20 This section shall not be construed to require any ~~financial institution~~ regulated
21 entity to make any disclosure not otherwise required by law. This section shall

1 not be construed to require or encourage any ~~financial institution~~ regulated
2 entity to alter any procedures or practices not inconsistent with this subchapter.
3 This section shall not be construed to expand or create any authority in any
4 person or entity other than a ~~financial institution~~ regulated entity.

5 * * *

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

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

12 (8) The disclosure of information to a collection agency, its employees
13 or agents, or to any person engaged by the ~~financial institution~~ regulated entity
14 to assist in recovering an amount owed to the ~~financial institution~~ regulated
15 entity, if such disclosure is made in the furtherance of recovering such amount.

16 * * *

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

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

6 (15) The exchange, in the regular course of business, of information
7 between a ~~financial institution~~ regulated entity and a mercantile agency,
8 provided such exchange is solely for the purpose of reporting to third parties
9 on the credit rating or creditworthiness of any business and is in compliance
10 with the Vermont Fair Credit Reporting Act, 9 V.S.A. chapter 63, subchapter
11 3, and the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.

12 * * *

13 (19) Disclosure requested pursuant to subpoena, provided that no
14 disclosure shall be made until 14 days after the ~~financial institution~~ regulated
15 entity has notified the customer that financial information has been requested
16 by subpoena. Such notice shall be served by first-class mail to the customer at
17 the most recent address known to the ~~financial institution~~ regulated entity. The
18 provisions of this subdivision shall not apply where the subpoena is issued by
19 or on behalf of a regulatory, criminal, or civil law enforcement agency.

1 (20) Disclosure required by order of court.

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

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

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

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

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

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

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

10 § 10205. PENALTIES

11 In addition to the authority provided ~~under sections 11601, 11602, and~~
12 ~~11603~~ of in this title, the Commissioner may impose an administrative penalty
13 of not more than \$1,000.00 for each violation of this subchapter resulting from
14 willful conduct or from a failure by a ~~financial institution~~ regulated entity to
15 provide reasonable supervision of its employees to prevent violations of this
16 subchapter.

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

18 § 10206. LEAD SOLICITATIONS

19 (a) As used in this section, "consumer" means a natural person residing in
20 this State.

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

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

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

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

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

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

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

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

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

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

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

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

7 § 10301. COMMUNITY REINVESTMENT REPORTS

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

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

17 § 10402. LENDING REPORTS, DISCLOSURES, AND STANDARDS

18 ~~An entity subject to this chapter~~ Any person licensed, chartered, or
19 otherwise authorized, or required to be licensed, chartered, or otherwise
20 authorized, under Part 2, 4, or 5 of this title shall be subject to and comply with
21 the provisions of 9 V.S.A. chapter 4 (interest).

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

2 § 10403. PROHIBITION ON DISCRIMINATION BASED ON SEX,
3 MARITAL STATUS, RACE, COLOR, RELIGION, NATIONAL
4 ORIGIN, AGE, SEXUAL ORIENTATION, GENDER IDENTITY,
5 OR DISABILITY

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

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

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

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

19 (2) “Applicant” means any person who applies to a ~~financial~~ lending
20 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 ~~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.

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

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

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

10 § 10404. HOME LOAN ESCROW ACCOUNTS

11 * * *

12 (e) The lender shall maintain escrow account funds in a ~~federally~~ an
13 insured depository institution, as defined in the Federal Deposit Insurance Act,
14 12 U.S.C. § 1813, as may be amended, or as defined under the Federal Credit
15 Union Act, 12 U.S.C. § 1781, as may be amended.

16 * * *

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

18 § 10405. DEBT PROTECTION AGREEMENTS

19 * * *

20 (c)(1) Requirements. In the case of credit granted by a seller or retail seller
21 of motor vehicles or of other goods and services that is not required to be

1 licensed under chapter 73 of this title, such retail seller or seller of motor
2 vehicles or of other goods and services shall, within 15 business days, sell,
3 assign, or otherwise transfer the loan agreement, motor vehicle installment
4 contract, or retail sales installment contract, together with the related debt
5 protection agreement in accordance with the provisions of subdivision (2) of
6 this subsection.

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

13 * * *

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

15 § 10504. BASIC BANKING RULES

16 The Commissioner may adopt rules to require Vermont financial
17 institutions ~~with their principal place of business in this State~~ to offer basic
18 checking and savings accounts if the Commissioner finds a material
19 deterioration in the availability and cost of basic checking and savings account
20 services in the results of any two consecutive surveys. ~~The rule~~ Any rules
21 adopted by the Commissioner under this section shall ensure that any required

1 basic banking will not impair the safety and soundness of any affected
2 Vermont financial institution and that any such rules shall not adversely affect
3 other consumers of banking services.

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

5 § 10505. RETURNED CHECK CHARGES

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

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

11 § 10601. APPLICATION

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

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

17 § 10701. DEFINITIONS

18 As used in this subchapter, the term

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

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

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

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

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

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

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

13 § 10702. COUNSELING

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

1 Department of ~~Financial Regulation~~. The certificate shall be signed by the
2 borrower and the counselor and include the date of counseling; the name,
3 address, and telephone number of both the borrower and the organization
4 providing counseling; and shall be maintained by the holder of the reverse
5 mortgage throughout the term of the reverse mortgage loan.

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

7 § 10703. ANNUITIES

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

12 (1) offer an annuity to the borrower prior to the closing of the reverse
13 mortgage or before the expiration of the right of the borrower to rescind the
14 reverse mortgage agreement;

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

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

19 § 10704. LIMITATION ON REVERSE MORTGAGE LOAN PROGRAMS

20 ~~No financial institution~~ person shall issue a reverse mortgage loan unless it
21 is a lender approved by the federal Department of Housing and Urban

1 Development (HUD) to enter into a loan insured by the federal government
2 and the reverse mortgage loan complies with all requirements for participation
3 in the HUD Home Equity Conversion Mortgage Program or other similar
4 federal reverse mortgage loan program from time to time created and is insured
5 by the Federal Housing Administration or other similar federal agency or is a
6 government sponsored enterprise reverse mortgage loan.

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

8 § 11101. DEFINITIONS

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

13 * * *

14 (65) “Vermont financial institution” means a special purpose financial
15 institution or universal financial institution organized under the laws of the
16 State of Vermont.

17 * * *

18 * * * Banking; Financial and Related Institutions * * *

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

20 § 12201. MEETINGS

1 (a) The governing body of a Vermont financial institution shall meet at
2 ~~least monthly, except as otherwise provided in this section~~ as often as is
3 necessary to ensure proper oversight of the financial institution but not less
4 than four times per year, at least once each quarter. ~~A governing body that has~~
5 ~~appointed an executive committee that meets during the months in which the~~
6 ~~governing body does not meet shall meet at least six times a year, including~~
7 ~~once each quarter. Minutes~~ If a governing body meets less than monthly,
8 during the months in which the governing body does not meet, the governing
9 body shall appoint an executive committee that meets monthly. The minutes
10 of executive committee meetings shall be ratified by the governing body at the
11 governing body's next meeting.

12 * * *

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

14 § 13402. MEETINGS OF THE GOVERNING BODY

15 (a) The governing body ~~shall hold at least six meetings each year at a time~~
16 ~~fixed in the internal governance documents, which shall be held~~ of a mutual or
17 cooperative financial institution shall meet as often as is necessary to ensure
18 proper oversight of the financial institution but not less than four times per
19 year, at least once each quarter. ~~In any month in which the governing body~~
20 ~~does not meet, the executive committee permitted under subsection 13403(e)~~
21 ~~of this title shall meet and a record of the meeting of the executive committee~~

1 If a 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 executive committee meetings
4 shall be ratified at the governing body's next meeting ~~of the governing body.~~

5 * * *

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

7 § 14301. LOAN AUTHORITY

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

12 (b) Written loan policy.

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

17 (A) loan portfolio mix and diversification standards and, if
18 applicable, derivative transaction portfolio mix and diversification standards;

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

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

3 (D) documentation and approval requirements to monitor compliance
4 with lending policies; and

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

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

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

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

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

4 (A) ~~In the case of obligations of one person, the~~ The proceeds will of
5 a loan, derivative transaction, or extension of credit to one person shall be
6 deemed to be used for the direct benefit of another person and ~~will~~ shall be
7 attributed to the other person when the proceeds, or assets purchased with the
8 proceeds, are transferred to another person, other than in a bona fide arm's
9 length transaction where the proceeds are used to acquire property, goods, or
10 services.

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

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

20 (ii)(I) Loans, derivative transactions, or extensions of credit are
21 made:

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

4 (bb) substantial financial interdependence exists between or
5 among the borrowers.

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

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

18 (IV) For the purposes of this subdivision (d)(1)(B)(ii), gross
19 receipts and expenditures include gross revenues, gross expenses,
20 intercompany loans, dividends, capital contributions, and similar receipts or
21 payments.

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

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

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

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

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

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

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

1 ~~(i) loaned to the corporation or limited liability company;~~
2 ~~(ii) used for the acquisition from the corporation or limited liability~~
3 ~~company of any equity interest in the corporation or company; and~~
4 ~~(iii) transferred to the corporation or limited liability company~~
5 ~~without fair and adequate consideration; provided, however, that the discharge~~
6 ~~of an equivalent amount of debt previously incurred in good faith for value~~
7 ~~shall be deemed fair and adequate consideration.~~

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

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

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

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

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

1 (C) ~~Indebtedness~~ indebtedness evidenced by notes or other paper
2 secured by an assignment of accounts receivable or of amounts due to become
3 due on open account or on a contract to the extent of not less than 125 percent
4 of the indebtedness-;

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

12 (E) ~~Indebtedness~~ indebtedness arising out of the daily transaction of
13 the business of any clearing house association-;

14 (F) ~~Indebtedness~~ indebtedness secured to the extent thereof by the
15 cash surrender value of life insurance evidenced by policies of insurance
16 validity issued and assigned-;

17 (G) ~~Indebtedness~~ indebtedness secured to the extent thereof by
18 savings deposits or certificates of deposit of solvent financial institutions up to
19 the amount insured by the Federal Deposit Insurance Corporation, and duly
20 assigned-;

1 (H) ~~Any~~ any portion of any indebtedness that the U.S. government,
2 or an agency or instrumentality of the United States, unconditionally agreed to
3 purchase or has unconditionally guaranteed as to payment of both principal and
4 interest, including loans insured or guaranteed under the National Housing Act,
5 12 U.S.C. Chapter 13, or the Servicemen’s Readjustment Act of 1944, 38
6 U.S.C. Chapter 37, as may be amended;

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

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

13 (K) ~~That~~ that portion of a loan or extension of credit sold as a
14 participation by a financial institution on a nonrecourse basis, provided that the
15 participation results in a pro rata sharing of credit risk proportionate to the
16 respective interests of the originating and participating lenders.

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

18 § 30101. DEFINITIONS

19 ~~As used in this part~~ Except as otherwise specifically provided elsewhere in
20 this title, the following terms have the following meanings for purposes of this

1 Part and Parts 1, 2, and 4 of this title, unless the context clearly indicates
2 otherwise:

3 * * *

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

5 § 31304. MEETINGS OF GOVERNING BODY

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

20 * * *

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

2 § 32204. JOINT DEPOSITS

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

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

9 (c) A single joint share account may hold more than one membership share,
10 supporting membership for more than one member of the credit union. If more
11 than one joint owner seeks credit union membership through the joint account,
12 the joint account must contain a membership share for each member.

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

14 § 32301. LOAN AUTHORITY

15 (a) Unless otherwise restricted by applicable law, rule, or regulation, a
16 credit union may lend to its members, including where a coborrower is a
17 nonmember, for such purposes as prescribed by the governing body. ~~The~~
18 ~~governing body shall establish a written loan policy in accordance with the~~
19 ~~requirements of this section.~~

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

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

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

8 (A) loan portfolio mix and diversification standards;

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

11 (C) loan administration procedures, including delegation and
12 individual lending officer authority; and

13 (D) documentation and approval requirements to monitor compliance
14 with lending policies.

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

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

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

4 * * *

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

7 * * *

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

14 * * *

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

16 § 34101. MERGERS

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

20 * * *

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

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

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

18 (2) Upon receipt of the items in subdivision (1) of this subsection and
19 evidence that the participating credit unions have complied with all applicable
20 State and federal law, the Commissioner shall issue to the continuing credit
21 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.

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

2 § 3561. ~~ANNUAL STATEMENT~~ ANNUAL STATEMENT AND QUARTERLY STATEMENTS

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

1 State of Vermont shall pay to the Commissioner \$25.00 for the filing of its
2 final financial statement.

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

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

19 (d)(1) At the direction of the Commissioner, each domestic, foreign, and
20 alien insurance company doing business in this State shall annually submit to
21 the Commissioner, in a manner and on forms approved by the Commissioner, a

1 statement of its market conduct performance for the purpose of permitting the
2 participation of this State in the Market Conduct Annual Statement program of
3 the ~~National Association of Insurance Commissioners~~ NAIC. The statement
4 shall be prepared in accordance with the Market Conduct Annual Statement
5 instructions published by the ~~National Association of Insurance~~
6 ~~Commissioners~~ NAIC, with any useful or necessary modifications or
7 adaptations thereof required or approved or accepted by the Commissioner for
8 the type of insurance and kinds of insurers to be reported upon, and as
9 supplemented by additional information required by the Commissioner.

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

19 ~~(e)~~(e) The Commissioner shall adopt by rule the Medical Professional
20 Liability Closed Claim Reporting Model Law of the ~~National Association of~~
21 ~~Insurance Commissioners~~ NAIC, as may be amended ~~from time to time~~, or in

1 the Commissioner's discretion a substantially similar rule. Subject to section
2 22 of this title, information that identifies, directly or indirectly, the closed
3 claims of a health care facility or a health care provider shall be confidential
4 and privileged, shall not be made public, shall not be subject to subpoena, and
5 shall not be subject to discovery or introduction into evidence in any private
6 civil action.

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

8 § 3811. DEPENDENTS' COVERAGE

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

15 (1) The premium for the insurance shall be paid by the policyholder,
16 either from the employer's, union's, or association's funds or funds contributed
17 by them or from funds contributed by the insured employees or members, or
18 from both. If any part of the premium is to be derived from funds contributed
19 by the insured employees or members, the insurance with respect to spouses
20 and children may be placed in force only if at least 75 percent of the ~~then~~
21 eligible employees or members ~~who then have eligible dependents, excluding~~

1 ~~any as to whose family members evidence of insurability is not satisfactory to~~
2 ~~the insurer,~~ elected to make the required contribution. If no part of the
3 premium is to be derived from funds contributed by the employees or
4 members, all eligible employees or members, excluding any as to whose
5 family members evidence of insurability is not satisfactory to the insurer, must
6 be insured with respect to their spouses and children.

7 * * *

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

9 § 4724. UNFAIR METHODS OF COMPETITION OR UNFAIR OR

10 DECEPTIVE ACTS OR PRACTICES DEFINED

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

13 * * *

14 (7) Unfair discrimination; arbitrary underwriting action.

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

19 (B) Making or permitting unfair discrimination against an applicant
20 or an insured, on the basis of the sex, sexual orientation, gender identity, race,

1 religion, national origin, or marital status of the applicant or insured, with
2 regard to:

3 (i) underwriting standards and practices or eligibility
4 requirements; or

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

9 * * *

10 * * * Securities * * *

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

12 § 5202. EXEMPT TRANSACTIONS

13 The following transactions are exempt from the requirements of sections
14 ~~5301 through 5306~~ 5301–5306 and 5504 of this chapter:

15 * * *

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

18 ~~(A)~~(i) not more than ~~25~~ 10 purchasers are present in this State

19 during any 12 consecutive months, other than those designated in subdivision

20 (13) of this section;

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* * *

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

§ 5305. SECURITIES REGISTRATION FILINGS

(a) A registration statement may be filed by the issuer, a person on whose behalf the offering is to be made, or a broker-dealer registered under this chapter.

(b) A person filing a registration statement shall pay a filing fee of \$600.00. A person filing a registration statement in connection with the New England Crowdfunding Initiative shall be exempt from the filing fee requirement. ~~Open-end investment companies shall pay a registration fee and an annual renewal fee for each portfolio as long as the registration of those securities remains in effect.~~ The fee is nonrefundable.

* * *

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

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

§ 5602. INVESTIGATIONS AND SUBPOENAS

* * *

(f) Unless presented by an emergency or exigent circumstances, the Commissioner shall give notice to the Attorney General and U.S. Attorney not less than five business days before applying to the ~~Washington County~~

1 Superior Court of Washington County to compel the testimony, the filing of
2 the statement, the production of the record, or the giving of other evidence
3 under subsection (e) of this section. In the case of an emergency or exigent
4 circumstances, the Commissioner shall notify the Attorney General and U.S.
5 Attorney as soon as possible before applying to the ~~Washington County~~
6 Superior Court of Washington County.

7 * * *

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

9 (C) imposing a civil penalty up to \$15,000.00 for each violation; an
10 order of rescission, restitution, or disgorgement directed to a person that has
11 engaged in an act, practice, or course of business constituting a violation of this
12 chapter or the predecessor act or a rule adopted or an order issued under this
13 chapter or the predecessor act. The court may increase a civil penalty amount
14 by not more than \$5,000.00 per violation for violations involving a person who
15 is a vulnerable adult as defined in 33 V.S.A. § 6902(14)(34). The limitations
16 on civil penalties contained in this subdivision shall not apply to settlement
17 agreements; and

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

19 (e) For purposes of determining any sanction to be imposed under
20 subsections ~~(a) through (d)~~ (a)–(d) of this section, the Commissioner shall
21 consider among other factors, ~~the frequency and persistence of the conduct~~

1 ~~constituting a violation of this chapter or a rule or order of the Commissioner~~
2 ~~under this chapter and the number of persons adversely affected by the~~
3 ~~conduct, and the resources of the person committing the violation;~~

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

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

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

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

12 (5) the deterrent effect of the penalty;

13 (6) the economic resources of the respondent;

14 (7) the respondent's record of compliance; and

15 (8) any other aggravating or mitigating circumstances.

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

17 § 5616. VERMONT FINANCIAL SERVICES EDUCATION AND VICTIM
18 RESTITUTION SPECIAL FUND

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

20 (1) funds for the purposes specified in subsection 5601(d) of this title;

1 (2) restitution assistance to victims of securities violations who:

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

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

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

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

11 (b) Definitions. As used in this section:

12 (1) "Claimant" means a person who files an application for restitution
13 assistance under this section ~~on behalf of a victim. The claimant and the~~
14 ~~victim may be the same but do not have to be the same. The term includes the~~
15 ~~named party in a restitution award in a final order, the executor of a named~~
16 ~~party in a restitution award in a final order, and the heirs and assigns of a~~
17 ~~named party in a restitution award in a final order.~~

18 (2) "Dependent child" means a person who falls within the definition of
19 "qualifying child" as defined in 26 U.S.C. § 152, as may be amended, with
20 respect to the victim or the victim's surviving spouse as of the date the final
21 order is issued.

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

5 (3)(4) “Fund” means the Vermont Financial Services Education and
6 Victim Restitution Special Fund created by this section.

7 (4)(5) “Securities violation” means a violation of this chapter and any
8 related administrative rules.

9 (5)(6) “Victim” means a person who was awarded restitution in a final
10 order.

11 (6)(7) “Vulnerable ~~person~~ adult” means:

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

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

15 (c) Eligibility.

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

20 (2) The Commissioner shall not award securities restitution assistance
21 under this section:

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

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

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

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

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

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

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

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

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

14 or

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

16 ~~(e)~~(d) Application for restitution assistance and maximum amount of
17 restitution assistance award.

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

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

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

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

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

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

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

15 (C) any other information provided in or with an application for
16 restitution assistance that alone, or in combination with the other information
17 provided in or with the application, would allow a person to identify the
18 claimant or victim with reasonable certainty.

19 ~~(f)~~(e) Vermont Financial Services Education and Victim Restitution
20 Special Fund. The Vermont Financial Services Education and Victim
21 Restitution Special Fund, pursuant to 32 V.S.A. chapter 7, subchapter 5, is

1 created to provide funds for the purposes specified in this section, in subsection
2 5601(d) of this title, and in section 5617 of this title. All monies received by
3 the State for use in financial services education initiatives pursuant to
4 subsection 5601(d) of this title, in providing uncompensated victims restitution
5 pursuant to this section, or in providing whistleblower awards pursuant to
6 section 5617 of this title shall be deposited into the Fund. The Commissioner
7 may direct a party to deposit a sum not to exceed 15 percent of the total
8 settlement amount into the Fund in conjunction with settling an enforcement
9 matter within the Department's jurisdiction, as described in 8 V.S.A. § 11(a).
10 Interest earned on the Fund shall be retained in the Fund.

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

14 ~~(h)~~(g) State's liability for award. The Commissioner shall have the
15 discretion to suspend applications and ~~awards~~ determine award amounts based
16 on the solvency of the Fund and the designation of monies in the Fund to the
17 other purposes established for the Fund. The State shall not be liable for any
18 determination made under this section.

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

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

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

4 (i) Forfeiture of restitution award.

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

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

12 (j) Rulemaking authority. The Commissioner may adopt rules to
13 implement this section.

14 * * * Miscellaneous Housekeeping * * *

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

16 § 19. FINANCIAL INSTITUTION SUPERVISION FUND; FEES AND
17 DEPARTMENTAL EXPENSES

18 (a) The Commissioner shall charge each financial institution or financial
19 institution applicant for Department services rendered. Charges for
20 Department services shall be billed as follows:

21 * * *

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

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

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

17 Sec. 56. REPEALS

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

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

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

4 § 3317. INSURANCE REGULATORY AND SUPERVISION FUND

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

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

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

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

1 (e) The Commissioner of Finance and Management may anticipate receipts
2 to the Insurance Regulatory and Supervision Fund and issue warrants based
3 thereon.

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

5 § 5411. POSTREGISTRATION REQUIREMENTS

6 (a) Subject to ~~15 U.S.C. § 78o(h)~~ 15 U.S.C. § 78o(i) or ~~15 U.S.C. § 80b-22~~
7 15 U.S.C. § 80b-18a, a rule adopted or order issued under this chapter may
8 establish minimum financial requirements for broker-dealers registered or
9 required to be registered under this chapter and investment advisers registered
10 or required to be registered under this chapter.

11 (b) Subject to ~~15 U.S.C. § 78o(h)~~ 15 U.S.C. § 78o(i) or ~~15 U.S.C. § 80b-22~~
12 15 U.S.C. § 80b-18a, a broker-dealer registered or required to be registered
13 under this chapter and an investment adviser registered or required to be
14 registered under this chapter shall file such financial reports as are required by
15 a rule adopted or order issued under this chapter. If the information contained
16 in a record filed under this subsection is or becomes inaccurate or incomplete
17 in a material respect, the registrant shall promptly file a correcting amendment.

18 (c) Subject to ~~15 U.S.C. § 78o(h)~~ 15 U.S.C. § 78o(i) or ~~15 U.S.C. § 80b-22~~
19 15 U.S.C. § 80b-18a:

20 (1) a broker-dealer registered or required to be registered under this
21 chapter and an investment adviser registered or required to be registered under

1 this chapter shall make and maintain the accounts, correspondence,
2 memoranda, papers, books, and other records required by rule adopted or order
3 issued under this chapter;

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

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

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

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

16 (f) Subject to 15 U.S.C. § 80b-18a, an investment advisor registered or
17 required to be registered under this chapter shall maintain adequate insurance
18 for the risk of a cybersecurity breach. The Commissioner may establish
19 requirements for such cybersecurity insurance, including criteria that may be
20 used to determine if the cybersecurity insurance is adequate.

1 (g) 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, an agent may not have custody of funds or securities of a
3 customer except under the supervision of a broker-dealer, and an investment
4 adviser representative may not have custody of funds or securities of a client
5 except under the supervision of an investment adviser or a federal covered
6 investment adviser. A rule adopted or order issued under this chapter may
7 prohibit, limit, or impose conditions on a broker-dealer regarding custody of
8 funds or securities of a customer and on an investment adviser regarding
9 custody of securities or funds of a client.

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

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

