

Journal of the House

Tuesday, April 17, 2012

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rep. William Aswad of Burlington, VT.

Pledge of Allegiance

Page Alex Ventriss of South Burlington led the House in the Pledge of Allegiance.

Message from the Senate No. 43

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:

S. 28. An act relating to the permit process for protecting the environment.

In the passage of which the concurrence of the House is requested.

The Senate has considered a bill originating in the House of the following title:

H. 760. An act relating to lowering to 16 the age of consent for blood donation.

And has passed the same in concurrence.

The Senate has considered a bill originating in the House of the following title:

H. 761. An act relating to executive branch fees, including motor vehicle and fish and wildlife fees.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the House is requested.

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 11. Joint resolution urging the United States Congress to propose

amendments to the United States Constitution for the states' consideration relating to contributions and expenditures intended to affect elections and relating to the rights of corporations.

In the adoption of which the concurrence of the House is requested.

The Senate has on its part adopted Senate concurrent resolutions of the following titles:

S.C.R. 43. Senate concurrent resolution designating May 2012 as Lupus Awareness Month in Vermont.

S.C.R. 44. Senate concurrent resolution congratulating Robert Swartz on being named the 2012 Northeast Kingdom Chamber Citizen of the Year.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 337. House concurrent resolution designating Wednesday, April 25, 2012, as National Walk@Lunch Day in Vermont.

H.C.R. 338. House concurrent resolution congratulating the Twinfield Union School 2012 Division IV championship boys' basketball team.

H.C.R. 339. House concurrent resolution congratulating the 2011 Randolph Union High School Division III girls' cross country championship team.

H.C.R. 340. House concurrent resolution thanking the staff of the agency of natural resources, academic and scientific institutions, and community members who contributed to the development of the new Bedrock Geologic Map of Vermont.

H.C.R. 341. House concurrent resolution congratulating the St. Johnsbury Academy Hilltoppers on winning the 2012 boys' indoor state track and field championship.

H.C.R. 342. House concurrent resolution congratulating Xiangru Chen on winning a 2012 Siemens Award for excellence in science and mathematics.

H.C.R. 343. House concurrent resolution commemorating the 75th anniversary of the U.S. Fish and Wildlife Service's Wildlife & Sport Fish Restoration Program.

H.C.R. 344. House concurrent resolution congratulating Oxbow Union High School athletes A. J. Gillis and William Heathman on their victories at the 2012 state indoor track and field championship.

H.C.R. 345. House concurrent resolution celebrating the 20th anniversary of the enactment of Act 135, Vermont's sexual orientation antidiscrimination

law, and the vital role played in its passage by Representative Ron Squires, Vermont's first openly gay state legislator.

H.C.R. 346. House concurrent resolution welcoming the visiting military delegation from Macedonia and commemorating the continuing partnership between the state of Vermont and Macedonia.

H.C.R. 347. House concurrent resolution congratulating the BFA-St. Albans Bobwhites 2012 Division I championship boys' ice hockey team.

H.C.R. 348. House concurrent resolution congratulating the winning teams at the fifth annual Jr. Iron Chef VT cooking competition.

H.C.R. 349. House concurrent resolution congratulating Christopher Gish on winning the 2012 Vermont Geographic Bee.

H.C.R. 350. House concurrent resolution congratulating Patricia Howrigan Reynolds on being named the 2012 Vermont Mother of the Year.

H.C.R. 351. House concurrent resolution in memory of Vermont archivist, historian, and librarian Esther Munroe Swift.

H.C.R. 352. House concurrent resolution honoring Louis D. Lertola of South Burlington for his outstanding work in securing increased local property tax exemptions for disabled veterans.

Committee Bill Introduced

H. 794

Rep. Sweaney of Windsor, for the committee on Government Operations, introduced a bill, entitled

An act relating to the management of search and rescue operations

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Senate Bill Referred

S. 28

Senate bill, entitled

An act relating to the permit process for protecting the environment

Was read and referred to the committee on Natural Resources and Energy.

Bill Referred to Committee on Appropriations**S. 223**

Senate bill, entitled

An act relating to health insurance coverage for early childhood development disorders, including autism spectrum disorders

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Joint Resolution Placed on Calendar**J.R.S. 11**

By Senators Lyons, Sears, Ashe, Ayer, Baruth, Fox, Giard, MacDonald, McCormack, Miller and Pollina,

J.R.S. 11. Joint resolution urging the United States Congress to propose an amendment to the United States Constitution for the states' consideration which provides that corporations are not persons under the laws of the United States or any of its jurisdictional subdivisions.

Whereas, the U.S. Bill of Rights provides certain inalienable rights to natural persons, and

Whereas, corporations are not mentioned in the U.S. Constitution, and

Whereas, corporations are legal entities that governments create, and the rights they enjoy under the U.S. Constitution should be more narrowly defined than the rights that are afforded to natural persons, and

Whereas, the decision to regulate corporate financial campaign contributions is one that historically Congress and the states have been constitutionally allowed to address, and

Whereas, in 1907, Congress enacted the Tillman Act prohibiting corporate financial contributions to federal election campaigns for public office, and

Whereas, in 2010, the U.S. Supreme Court in *Citizens United v. Federal Election Commission*, 130 S.Ct. 876 (U.S. 2010), ruled that Congress and the states lacked the constitutional right to ban independent corporate expenditures to political campaigns for public office, and

Whereas, the U.S. Supreme Court in the *Citizens* decision relied on its previously issued opinion in the 1976 case *Buckley v. Valeo*, 424 U.S. 1 (U.S. 1976), in which it equated the spending of money for electing candidates to public office as speech, and

Whereas, the *Citizens* decision has allowed for the creation of super political action committees in election campaigns for public office that allow for unregulated campaign expenditures in unprecedented amounts, and

Whereas, as a result of the *Citizens* decision, Congress and the state legislatures were denied any legal authority to regulate independent corporate political expenditures, and

Whereas, a restoration of the guidelines established in the Bipartisan Campaign Reform Act of 2002 is imperative so that Congress and the state legislatures may exercise their historic authority to make their own decisions about whether to regulate corporate political expenditures, and

Whereas, this policy change will require that the U.S. Constitution be amended to authorize congressional or state regulation of individual and corporate financial participation in political campaigns, and

Whereas, on Vermont town meeting day, March 6, 2012, 64 Vermont towns and cities passed resolutions urging the Vermont congressional delegation and the U.S. Congress to propose legislative or congressional action to address the issues raised by *Citizens* including that money is not speech and corporations are not persons under the U.S. Constitution, and

Whereas, these resolutions, passed by towns on town meeting day, also urged the general assembly to pass a similar resolution directed at the Vermont congressional delegation, and

Whereas, U.S. Senator Tom Udall of New Mexico with 22 cosponsors has introduced Senate Joint Resolution 29, “proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections,” that would give the Congress and the states the authority to regulate the raising and spending of moneys with respect to elections, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly expresses its disagreement with the holdings of the U.S. Supreme Court in *Buckley* and in *Citizens* that money is speech and urges Congress to adopt Senate Joint Resolution 29, *and be it further*

Resolved: That the General Assembly urges Congress to consider the request of many Vermont cities and towns to propose a U.S. constitutional amendment for the state’s consideration that provides that money is not speech and corporations are not persons under the U.S. Constitution and that also affirms the constitutional rights of natural persons, *and be it further*

Resolved: That the General Assembly does not support an amendment to the U.S. Constitution that would abridge the constitutional rights of any person or organization including freedom of religion or freedom of the press, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont Congressional Delegation.

Remarks Journalized

On motion of **Rep. Komline of Dorset**, the following remarks by **Rep. Klein of East Montpelier** were ordered printed in the Journal:

“Mr. Speaker:

It is an extreme honor and a great pleasure to have in the General Assembly today SGG Scott Hawkins and his family. SGG Hawkins is an East Montpelier native and a 1993 graduate of U-32 High School right here in East Montpelier. Upon graduation Scott enlisted in the U.S. Marine Corps where he served six years of active duty and was honorably discharged in 1999. He then joined the Vermont National Guard and deployed with Task Force Green Mountain in 2005 for one year. In 2010 he deployed again to Afghanistan where he served with the 101st Airborne in Paktika Province. Let me read for you some of this NCO Evaluation Report from his deployment in Afghanistan. He did receive their highest rating and he:

Received the Combat Coin of Excellence for his tactical ability and motivation;

Earned the Combat Infantryman’s Badge for the successful counter attack of his heavy weapons section against an entrenched and overwhelming enemy force;

Conducted appropriate level of preparation for over 200 combat operations which resulted in zero Coalition Force casualties; a safety level unmatched in 3-187 IN;

Performed the duties as acting platoon leader for one calendar month; excelled in route clearance and removal of enemy IED emplacement along tier one hot spot;

Inspired platoon to consistently exceed standards while operating under multiple task force commands and constantly changing guidance;

Conducted combat operations with the most junior enlisted in leadership positions out of any other platoon and still exploited 2 enemy caches and 3 IEDs in his area;

Oversaw the 100% accountability of all platoon sensitive items; more than 300 items valued at over 3.5 million dollars without loss or damage;

Accomplished the development of junior enlisted into the next strong generation of Mountain Infantry leaders.

SGG Hawkins is an outstanding NCO who leads by example; a solid professional ready for increased responsibility.

Scott currently has almost 19 years of service even at the young age of 37. He is currently with the 3-124th Information Battalion as an instructor right here at Norwich University.

I am here to thank Scott for his dedicated service to his country, his state and his community. I want all of us to welcome him home and simply say "JOB WELL DONE. WE APPRECIATE WHAT YOU HAVE DONE."

Now, I have to tell you that it wasn't easy to get Scott to agree to come in here today. With encouragement from his mom, Sue, I pestered Scott with emails for months. I told him it would be a good thing, not only for him and his family, but for all of us to take a moment and give thanks to those Vermonters who put themselves in harm's way so that we can enjoy the freedoms that we all too often take for granted.

What I have learned and noticed is that we, in this great State House, make great fanfare about our brave Vermont men and women when we are sending them off to fight in foreign lands. But how often do we think about their return to everyday life after experiencing situations that many of us would never want to thank about. So what SGG Hawkins is most concerned about is certainly not himself, but those young men and women who served with him and who are maybe having a tough time adjusting to live after deployment. SGG Hawkins wants us to remember to thank each and every service person who served their country and state with honor. And if it takes each and every Rep in this legislature to bring a Vermont Guard family in to the State House so that we don't forget what they do for us, then that is time well spent. They are all proud but they do need our help and they do deserve our thanks.

So, I start by thanking all our Vermont Guardsmen and by thanking MY neighbor and constituent SGG Scott Hawkins for his long and dedicated service. We appreciate everything you do for us.

Please warmly welcome SGG Scott Hawkins and his wife, Marcie, their children Jordan, Aiden and Arianna and Scott's mom, Sue. Along with many friends and neighbors seated in the gallery."

Bill Amended, Read Third Time and Passed**H. 762**

House bill, entitled

An act relating to workers' compensation and unemployment compensation

Was taken up and pending third reading of the bill, **Reps. Pugh of South Burlington and Haas of Rochester** moved to amend the bill as follows:

In Sec. 26b, STUDY, by striking the last sentence and inserting in lieu thereof "The report shall be made to the house committees on appropriations, on commerce and economic development, and on human services and the senate committees on appropriations, on economic development, housing and general affairs, and on health and welfare by January 15, 2013."

Which was agreed to.

Pending third reading of the bill, **Rep. Koch of Barre Town** moved to amend the bill as follows:

First: In Sec. 5, 21 V.S.A. § 398, in the first sentence by striking out "fails to" and inserting in lieu thereof "does not"

Second: In Sec. 14, 21 V.S.A. § 1452(3), by striking out "lead" and inserting in lieu thereof "led"

Third: In Sec. 19, 21 V.S.A. § 1340a(e)(1)(A), by striking out "Is" and inserting in lieu thereof "is"

Fourth: In Sec. 19, 21 V.S.A. § 1340a(e)(1)(C), by striking out "but not limited to" after "including"

Fifth: In Sec. 19, 21 V.S.A. § 1340a(e)(2)(D), by striking out "actively engage" and inserting in lieu thereof "engage actively"

Sixth: In Sec. 21, 21 V.S.A. § 1803(a)(1), by striking out "notarized" and inserting in lieu thereof "sworn"

Which was agreed to.

Thereupon, the bill was read the third time.

Pending the question, Shall the bill pass? **Rep. Botzow of Pownal** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 131. Nays, 0.

Those who voted in the affirmative are:

Acinapura of Brandon
Ancel of Calais

Andrews of Rutland City
Aswad of Burlington

Atkins of Winooski
Bartholomew of Hartland

Batchelor of Derby	Head of South Burlington	Munger of South Burlington
Bissonnette of Winooski	Heath of Westford	Myers of Essex
Bohi of Hartford	Hebert of Vernon	Nuovo of Middlebury
Botzow of Pownal	Helm of Fair Haven	Olsen of Jamaica
Bouchard of Colchester	Higley of Lowell	Partridge of Windham
Branagan of Georgia	Hooper of Montpelier	Pearce of Richford
Brennan of Colchester	Howard of Cambridge	Pearson of Burlington
Browning of Arlington	Howrigan of Fairfield	Peltz of Woodbury
Burke of Brattleboro	Hubert of Milton	Perley of Enosburgh
Buxton of Tunbridge	Jerman of Essex	Poirier of Barre City
Campion of Bennington	Jewett of Ripton	Potter of Clarendon
Canfield of Fair Haven	Johnson of South Hero	Ralston of Middlebury
Cheney of Norwich	Keenan of St. Albans City	Ram of Burlington
Christie of Hartford	Kitzmiller of Montpelier	Reis of St. Johnsbury
Clark of Vergennes	Klein of East Montpelier	Russell of Rutland City
Clarkson of Woodstock	Koch of Barre Town	Savage of Swanton
Condon of Colchester	Komline of Dorset	Scheuermann of Stowe
Conquest of Newbury	Krebs of South Hero	Shand of Weathersfield
Consejo of Sheldon	Krowinski of Burlington	Sharpe of Bristol
Corcoran of Bennington	Kupersmith of South	Shaw of Pittsford
Courcelle of Rutland City	Burlington	Spengler of Colchester
Crawford of Burke	Lanpher of Vergennes	Stevens of Waterbury
Dakin of Chester	Larocque of Barnet	Stevens of Shoreham
Davis of Washington	Lawrence of Lyndon	Strong of Albany
Deen of Westminster	Lenes of Shelburne	Stuart of Brattleboro
Degree of St. Albans City	Lewis of Berlin	Sweaney of Windsor
Devereux of Mount Holly	Lewis of Derby	Taylor of Barre City
Dickinson of St. Albans	Lippert of Hinesburg	Till of Jericho
Town	Macaig of Williston	Townsend of Randolph
Donaghy of Poultney	Malcolm of Pawlet	Trieber of Rockingham
Donovan of Burlington	Manwaring of Wilmington	Turner of Milton
Edwards of Brattleboro	Marcotte of Coventry	Waite-Simpson of Essex
Ellis of Waterbury	Marek of Newfane	Webb of Shelburne
Emmons of Springfield	Martin of Springfield	Wilson of Manchester
Evans of Essex	Martin of Wolcott	Winters of Williamstown
Fagan of Rutland City	Masland of Thetford	Wizowaty of Burlington
Fisher of Lincoln	McAllister of Highgate	Woodward of Johnson
Frank of Underhill	McCullough of Williston	Wright of Burlington
French of Shrewsbury	McFaun of Barre Town	Yantachka of Charlotte
French of Randolph	Miller of Shaftsbury	Young of Glover
Gilbert of Fairfax	Mook of Bennington	Zagar of Barnard
Grad of Moretown	Moran of Wardsboro	
Haas of Rochester	Mrowicki of Putney	

Those who voted in the negative are: none

Those members absent with leave of the House and not voting are:

Burditt of West Rutland	Copeland-Hanzas of Bradford	Donahue of Northfield Eckhardt of Chittenden
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Greshin of Warren	Morrissey of Bennington	Smith of New Haven
Johnson of Canaan	O'Brien of Richmond	Smith of Morristown
Kilmartin of Newport City	O'Sullivan of Burlington	South of St. Johnsbury
Lorber of Burlington	Peaslee of Guildhall	Toll of Danville
McNeil of Rutland Town	Pugh of South Burlington	

Third Reading; Bill Passed**H. 787**

House bill, entitled

An act relating to approval of amendments to the charter of the city of Montpelier

Was taken up, read the third time and passed.

Third Reading; Bill Passed in Concurrence**S. 209**

Senate bill, entitled

An act relating to naturopathic physicians

Was taken up, read the third time and passed in concurrence.

Bill Amended; Third Reading Ordered**H. 533**

Rep. Kitzmiller of Montpelier, for the committee on Commerce and Economic Development, to which had been referred House bill, entitled

An act relating to insurance business transfers

Reported in favor of its passage when amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. TITLE

This act shall be known as the "Insurance Business Transfer Act."

Sec. 2. FINDINGS AND PURPOSE

(a) The Vermont general assembly finds:

(1) The creation of jobs and investment in the state of Vermont through business expansion and recruitment is of the highest importance.

(2) Vermont has created a thriving alternative risk financing industry, which has provided Vermonters with well-paying jobs and has created significant premium tax revenue for the state.

(b) The purpose of this act is to facilitate and streamline the process for

transfers of closed blocks of commercial insurance policies and reinsurance agreements between solvent insurance companies.

Sec. 3. 8 V.S.A. chapter 147 is added to read:

CHAPTER 147. INSURANCE BUSINESS TRANSFERS

§ 7111. DEFINITIONS

As used in this chapter:

(1) “Assuming insurer” means an insurance company that acquires an insurance obligation or risk from a transferring insurer pursuant to a plan, and that is a domestic insurer or a foreign or alien insurance company that has a certificate of authority issued by the commissioner under chapter 101 of this title.

(2) “Closed block” means a block, line, or group of businesses which an insurance company ceases to offer or sell to new applicants.

(3) “Comment period” means the 60-day period starting on the date the commissioner authorizes notice regarding a plan to be issued pursuant to subsection 7114(d) of this chapter. For good cause, the comment period may be extended by the commissioner up to an additional 30 days.

(4) “Commissioner” means the commissioner of banking, insurance, securities, and health care administration.

(5) “Department” means the department of banking, insurance, securities, and health care administration.

(6) “Domicile regulator” means the insurance regulatory authority of the domicile jurisdiction of a transferring insurer or an assuming insurer, if either such insurance company is a foreign insurance company or an alien insurance company.

(7) “Insurance business transfer” means a policy transfer or a reinsurance transfer.

(8) “Insurance business transfer plan” or “plan” means a plan that sets forth all provisions and includes all documentation regarding an insurance business transfer required under this chapter.

(9) “Parent company” means any person that organizes an insurance company the business of which is limited to the ownership and administration of policies and reinsurance agreements that are assumed by such insurance company under this chapter.

(10) “Party” means any person so defined under subsection 7118(c) of

this chapter.

(11) “Personal lines insurance” means an insurance policy that covers personal, family, or household risks.

(12) “Plan summary” means the written statement of the key terms and provisions of a plan described under subdivision 7114(b)(12) of this chapter.

(13) “Policy” means a contract of property insurance, casualty insurance, or a combination of property and casualty insurance, other than a personal lines insurance contract or an insurance contract that is subject to regulation under the workers’ compensation laws of any state, which is not a reinsurance agreement.

(14) “Policyholder” means the person identified as the policyholder or first named in a policy.

(15) “Policy transfer” means the transfer by a transferring insurer, and the assumption by an assuming insurer, of all rights, obligations, and liabilities of the transferring insurer with respect to a closed block of policies and any reinsurance agreements that are included in a plan.

(16) “Reinsurance agreement” means a contract of reinsurance between a transferring insurer and another insurance company, with respect to which a transferring insurer is a party as the reinsurer or the reinsured.

(17) “Reinsurance transfer” means the transfer by the transferring insurer, and the assumption by an assuming insurer, of all rights, obligations, and liabilities of a transferring insurer with respect to a closed block of reinsurance agreements that are included in a plan, which plan does not include the transfer or assumption of any right, liability, or obligation of the transferring insurer with respect to a policy.

(18) “Transferring insurer” means an insurance company that transfers an insurance obligation or risk to an assuming insurer pursuant to a plan, and that is a domestic insurer or a foreign or alien insurance company that has a certificate of authority issued by the commissioner under chapter 101 of this title.

§ 7112. JURISDICTION; APPEALS

(a) The commissioner shall have exclusive jurisdiction with respect to the review and approval or denial of any insurance business transfer plan.

(b) Any appeal of an order of the commissioner issued under section 7116 of this chapter shall be to the supreme court only, and such review shall be on the record and not de novo.

§ 7113. EXCLUDED TRANSACTIONS

This chapter shall not apply to any transfer of a policy or reinsurance agreement if all parties with an interest in the policies and reinsurance agreements being transferred have approved the transfer and the transfer is otherwise permitted under applicable law, including chapter 157 of this title.

§ 7114. APPLICATION FOR APPROVAL; INSURANCE BUSINESS TRANSFER PLAN

(a) A transferring insurer and assuming insurer shall file a plan with the commissioner and, at the time of filing, shall pay to the commissioner the fee described in subdivision 7117(a)(1) of this chapter.

(b) A plan shall include the following:

(1) a list of all parties, policies, and reinsurance agreements included in the plan and the identity of any parent company of the assuming insurer;

(2) certificates issued by the domicile regulators of the transferring insurer and the assuming insurer and, if applicable, a parent company that is a regulated insurance company, each attesting to the good standing of the transferring insurer, the assuming insurer, and the parent company under the insurance regulatory laws of the jurisdiction of their respective domicile regulator; provided that, if such certificates are not obtainable under the laws or practices of a domicile regulator, a certificate of an officer of the transferring insurer, the assuming insurer, or the parent company, as applicable, attesting to the foregoing;

(3) a statement describing the terms of each policy and reinsurance agreement, if any, regarding assignment and assumption of the rights, liabilities, and obligations of the transferring insurer with respect to each policy and reinsurance agreement;

(4) the most recent audited financial statements and annual reports filed by the transferring insurer and the assuming insurer with their respective domicile regulators, and such financial information with respect to a parent company, if any, with respect to the plan, that the commissioner may reasonably require;

(5) an actuarial study that quantifies the liabilities to be transferred to the assuming insurer under the policies and reinsurance agreements;

(6) the form and amount of consideration payable by the transferring insurer and proforma financial statements that demonstrate the solvency of the transferring insurer commensurate with the nature of the insurance business transfer after the transfer is effective;

(7) proforma financial statements that demonstrate the solvency of the assuming insurer commensurate with the nature of the insurance business transfer after the transfer is effective;

(8) officer certificates of the transferring insurer and the assuming insurer attesting that each has obtained all required internal approvals regarding the insurance business transfer;

(9) the form of notice to be provided to a party under this chapter and how such notice shall be provided;

(10) a statement regarding any pending dispute between the transferring insurer and any policyholder or party to a reinsurance agreement or of a disputed claim by any third party with respect to any policy or reinsurance agreement that is included in the plan;

(11) the statement described in subsection (c) of this section regarding the information and documents submitted as part of or with respect to a plan that are confidential;

(12) a plan summary that includes all information regarding the plan as reasonably required by the commissioner; and

(13) any other information that the commissioner may reasonably require with respect to the plan in the exercise of his or her reasonable discretion.

(c) The plan shall include a statement of the information and documentation included in the plan that the assuming insurer or the transferring insurer may request be given confidential treatment, which in all cases shall include all information identifying the persons insured under a policy and which may include any information that qualifies as a trade secret or other confidential research, development, or commercial information of the transferring insurer or the assuming insurer. The commissioner, subject to the exercise of his or her reasonable discretion, shall determine whether the information designated in such statement qualifies for confidential treatment. Any information qualifying for confidential treatment shall not be subject to subpoena and shall not be made public by the commissioner or by any other person; provided, however, the commissioner may in his or her discretion grant access to such information to public officers having jurisdiction over the regulation of insurance in any other state or country, to public officers of an international financial regulatory authority, or to state or federal law enforcement officers pursuant to a validly issued subpoena or search warrant, provided that such officers receiving the information agree in writing to hold it in a manner consistent with this section.

(d) Within 10 days of the date the application is filed and the fee payable

under subsection (a) of this section is paid in full, the commissioner shall notify the transferring insurer and the assuming insurer whether the notice described in subsection (e) of this section shall be issued. If the commissioner notifies the transferring insurer and the assuming insurer that such notice shall not be issued, the commissioner shall specify any modifications to the plan and additional information or documentation with respect to the plan that are required before such notice shall be issued. If the commissioner notifies the transferring insurer and the assuming insurer that the notice described in subsection (e) of this section shall be issued, the commissioner shall set a date for a hearing on the plan as required under subsection (g) of this section.

(e) Within 30 days of the date the commissioner notifies the transferring insurer and the assuming insurer pursuant to subsection (d) of this section that notice shall be issued, the transferring insurer shall provide notice to all parties that:

(1) complies with the plan and the provisions of 3 V.S.A. § 809(b);

(2) includes the plan summary, the date, time, and place of the hearing on the plan, and a statement of the right of each party to file written comments on the plan with the commissioner and appear and present evidence regarding the plan at the hearing; and

(3) includes all other information reasonably required by the commissioner.

(f) During the comment period:

(1) any party may file written comments on the plan with the commissioner; and

(2) the transferring insurer and the assuming insurer shall file with the commissioner such additional documentation and information regarding the plan as the commissioner may reasonably require.

(g) The hearing on the plan shall be held not later than 60 days after the end of the comment period. Any party that participates in such a hearing shall bear its own costs of participation, including attorney's fees.

§ 7115. PLAN REVIEW

(a) The commissioner shall retain an actuary to conduct an actuarial study quantifying the liabilities to be transferred to the assuming insurer under the policies and reinsurance agreements and is authorized to retain any other legal, financial, and examination services from outside the department to assist in the review of the plan.

(b) In reviewing the plan, the commissioner shall take into account all written comments filed with respect to the plan and evidence taken at the hearing on the plan, and any other factors that the commissioner reasonably deems relevant with respect to the plan, but in all cases, the commissioner shall consider each of the following:

(1) the solvency of the transferring insurer and the assuming insurer both before and after the implementation of the proposed plan;

(2) the ability of the assuming insurer to comply with all requirements of a policy and reinsurance agreements in the case of a policy transfer, or with all requirements of reinsurance agreements in the case of a reinsurance transfer, including administration of claims in process as of and after the effective date of the transfer;

(3) whether the plan would materially adversely affect either the interests of objecting parties or the interests of policyholders; and

(4) the fairness of the plan to all parties.

§ 7116. ORDER

(a) Within 30 days of the date the hearing is held on the plan, the commissioner shall issue an order setting forth the amount of fees payable by the transferring insurer under subdivision 7117(a)(2) of this chapter, payable not later than 14 days after the date of such order. Upon receipt of such payment the commissioner shall within five days issue an order that complies with subsection 7118(c) of this chapter approving or disapproving the plan. Whenever it is not practicable to issue an order within 30 days, the commissioner may extend such time up to an additional 30 days. If the order approves the plan, it shall:

(1) set forth the fee payable by the assuming insurer under subsection 7117(b) of this chapter, which fee shall be payable not later than 14 days after the date of such order;

(2) not be effective until such time as the fees described in this subsection have been paid in full.

(b) An order issued pursuant to subsection (a) of this section approving the plan shall transfer to the assuming insurer all of the transferring insurer's rights, obligations, liabilities, and assets with respect to each policy and reinsurance agreement that is subject to the plan, such that the transferring insurer has no further rights, obligations, or liabilities with respect to such policies and reinsurance agreements and the assuming insurer has all such rights, obligations, and liabilities as if it, instead of the transferring insurer, were the original party to such agreement. Such order shall be valid

notwithstanding any provision of any such policy or reinsurance agreement that would otherwise prohibit the transfer, including any provision of such policy or reinsurance agreement that would require the approval of a policyholder or any other person with respect to such transfer.

(c) The commissioner may issue any other orders that he or she reasonably deems necessary to fully implement an order issued under subsection (a) of this section.

(d) No order issued under subsection (a) or (c) of this section shall be construed to modify or amend the terms of a policy or reinsurance agreement, other than with respect to matters specifically subject to modification or amendment under this chapter.

(e) At any time before the commissioner issues the order described in subsection (a) of this section, either the transferring insurer or the assuming insurer may withdraw the plan without prejudice. Upon such withdrawal, however, the commissioner shall issue an order setting forth the amount of fees payable by the transferring insurer under subdivision 7117(a)(2) of this chapter, payable not later than 14 days after the date of such order.

§ 7117. FEES AND COSTS

(a) To cover the costs of processing and reviewing a plan under this chapter, the transferring insurer shall pay to the commissioner the following nonrefundable fees at the times set forth in subsections 7114(a) and 7116(a) of this chapter:

(1) a reasonable and adequate administrative fee, approved by the general assembly; and

(2) the reasonable cost of persons retained by the commissioner under subsection 7115(a) of this chapter.

(b) If a plan is approved, the assuming insurer shall pay the commissioner a reasonable and adequate transfer fee, approved by the general assembly.

§ 7118. APPLICABLE LAWS

(a) In the event of any conflict between a provision of this chapter and any other provision of this title, such provision of this chapter shall control. Without limitation of the foregoing, chapter 157 of this title shall not apply to any insurance business transfer under this chapter.

(b) A Vermont insured shall be entitled to receive any benefit under subchapter 9 (property and casualty insurance guaranty association) of chapter 101 of this title for claims arising out of any policy that is subject to an

insurance business transfer under this chapter.

(c) 3 V.S.A. §§ 801, 809, 812, 813, and 815(c) shall apply to a proposed insurance business transfer; provided, for purposes of the definitions set forth in 3 V.S.A. § 801:

(1) A proposed insurance business transfer shall be a “contested case.”

(2) A “party” with respect to a proposed insurance business transfer shall be limited to the transferring insurer, the assuming insurer, each counterparty to a reinsurance agreement, each policyholder in the case of a policy transfer only, and any other person the commissioner approves as a party with respect to such proceeding.

§ 7119. REGULATION OF INSURERS AND SERVICE PROVIDERS

(a) Except as provided in subsection (b) of this section, a transferring insurer and an assuming insurer shall be subject to all provisions of this title and all rules adopted by the commissioner under this title applicable to property and casualty insurance companies domiciled or licensed in this state.

(b) The commissioner may adopt rules or an order applicable to any insurance company that is organized or licensed under this title, which shall exempt such insurance company from any provision of this title or rules adopted thereunder, or which rules shall modify any provision of this title or rule adopted thereunder with respect to such insurance company, upon a finding that such exemption or modification is consistent with the purposes of this chapter and is in the public interest, provided such insurance company has been organized or licensed under this title solely to:

(1) participate in an insurance business transfer as a transferring insurer under this chapter; or

(2) own and administer policies and reinsurance agreements assumed by such insurer as an assuming insurer under this chapter.

(c) The commissioner shall adopt rules regarding the provision of services to an assuming insurer by persons other than any director, officer, or employee of such assuming insurer, with respect to the administration of policies and reinsurance agreements assumed by such assuming insurer pursuant to an insurance business transfer, including any licensing or other requirements.

(d) The commissioner may adopt any other rules necessary or appropriate to carry out the provisions of this chapter. Such rules shall ensure that the insurance business transfers authorized by this chapter take into account any rights and obligations arising under the laws of the domicile jurisdiction of any affected insurers and policyholders.

Sec. 4. INSURANCE BUSINESS TRANSFERS; REPORTS

(a) Interim report. On or before January 15, 2013, the commissioner of banking, insurance, securities, and health care administration shall submit to the house committee on commerce and economic development and the senate committee on finance a report summarizing the rulemaking process authorized under Sec. 3 of this act, including the major issues raised by interested parties. The interim report shall include also a description of the number and nature of any insurance business transfer plans filed or expected to be filed under 8 V.S.A. chapter 147, as well as the commissioner's recommendations, if any, for statutory amendments to 8 V.S.A. chapter 147.

(b) Final report. On or before January 15, 2014, the commissioner of banking, insurance, securities, and health care administration shall submit to the house committee on commerce and economic development and the senate committee on finance a report describing the number and nature of insurance business transfer plans filed under 8 V.S.A. chapter 147 and their current status. The report shall include also the commissioner's recommendations, if any, for statutory amendments to 8 V.S.A. chapter 147.

Sec. 5. EFFECTIVE DATES

(a) This section and Secs. 1 and 2 of this act shall take effect on passage.

(b) Sec. 3 of this act shall take effect on passage only with respect to the rulemaking authority granted to the commissioner of banking, insurance, securities, and health care administration under that section. Upon the adoption of all rules required by this act, all remaining provisions of Sec. 3 as well as Sec. 4 shall take effect.

Rep. Wilson of Manchester, for the committee on Ways and Means, recommended that the bill ought to pass when amended as recommended by the committee on Commerce and Economic Development and when further amended as follows:

In Sec. 3, by striking §7117 in its entirety and inserting in lieu thereof a new § 7117 to read as follows:

§ 7117. FEES AND COSTS

(a) To cover the costs of processing and reviewing a plan under this chapter, the transferring insurer shall pay to the commissioner the following nonrefundable fees at the times set forth in subsections 7114(a) and 7116(a) of this chapter:

(1) an administrative fee in the amount of \$30,000.00; and

(2) the reasonable cost of persons retained by the commissioner under subsection 7115(a) of this chapter.

(b) When a plan is approved, the assuming insurer shall pay the commissioner a transfer fee equal to the sum of:

(1) One percent of the first \$100,000,000.00 of the gross liabilities transferred, including direct and assumed unpaid claims, losses, and loss adjustment expenses with no reductions for amounts ceded; and

(2) 0.5 percent of the gross liabilities transferred, including direct and assumed unpaid claims, losses, and loss adjustment expenses with no reductions for amounts ceded that exceed \$100,000,000.00.

(c) All fees and payments received by the department under subsection 7117(a) of this chapter and 10 percent of the transfer fee under subsection 7117(b) of this chapter shall be credited to the insurance regulatory and supervision fund under section 80 of this title. The remaining 90 percent of the transfer fee shall be deposited directly into the general fund.

Thereupon, the bill was read the second time.

Thereupon, **Rep. Kitmiller of Montpelier** moved to substitute an amendment for the report of the committee on Commerce and Economic Development as follows:

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. TITLE

This act shall be known as the “Insurance Business Transfer Act.”

Sec. 2. FINDINGS AND PURPOSE

(a) The Vermont general assembly finds:

(1) The creation of jobs and investment in the state of Vermont through business expansion and recruitment is of the highest importance.

(2) Vermont has created a thriving alternative risk financing industry, which has provided Vermonters with well-paying jobs and has created significant premium tax revenue for the state.

(b) The purpose of this act is to facilitate and streamline the process for transfers of closed blocks of commercial insurance policies and reinsurance agreements between solvent insurance companies.

Sec. 3. 8 V.S.A. chapter 147 is added to read:

CHAPTER 147. INSURANCE BUSINESS TRANSFERS

§ 7111. DEFINITIONS

As used in this chapter:

(1) “Assuming insurer” means an insurance company that acquires an insurance obligation or risk from a transferring insurer pursuant to a plan and that is a domestic insurer that has a certificate of authority issued by the commissioner under chapter 101 of this title.

(2) “Closed block” means a block, line, or group of businesses which an insurance company ceases to offer or sell to new applicants.

(3) “Comment period” means the 60-day period starting on the date the commissioner authorizes notice regarding a plan to be issued pursuant to subsection 7114(d) of this chapter. For good cause, the comment period may be extended by the commissioner up to an additional 30 days.

(4) “Commissioner” means the commissioner of financial regulation.

(5) “Department” means the department of financial regulation.

(6) “Domicile regulator” means the insurance regulatory authority of the domicile jurisdiction of a transferring insurer if such insurance company is a foreign insurance company or an alien insurance company.

(7) “Insurance business transfer” means a policy transfer or a reinsurance transfer.

(8) “Insurance business transfer plan” or “plan” means a plan that sets forth all provisions and includes all documentation regarding an insurance business transfer required under this chapter.

(9) “Parent company” means any person that organizes an insurance company the business of which is limited to the ownership and administration of policies and reinsurance agreements that are assumed by such insurance company under this chapter.

(10) “Party” means any person so defined under subsection 7118(c) of this chapter.

(11) “Personal lines insurance” means property and casualty coverage sold to an individual or family for primarily noncommercial purposes and includes health, automobile, life, and homeowner’s insurance.

(12) “Plan summary” means the written statement of the key terms and provisions of a plan described under subdivision 7114(b)(12) of this chapter.

(13) “Policy” means a contract of property insurance, casualty insurance, or a combination of property and casualty insurance, other than a personal lines insurance contract or an insurance contract that is subject to regulation under the workers’ compensation laws of any state, which is not a reinsurance agreement.

(14) “Policyholder” means the person identified as the policyholder or first named in a policy.

(15) “Policy transfer” means the transfer by a transferring insurer and the assumption by an assuming insurer of all rights, obligations, and liabilities of the transferring insurer with respect to a closed block of policies and any reinsurance agreements that are included in a plan.

(16) “Reinsurance agreement” means a contract of reinsurance between a transferring insurer and another insurance company with respect to which a transferring insurer is a party as the reinsurer or the reinsured.

(17) “Reinsurance transfer” means the transfer by the transferring insurer and the assumption by an assuming insurer of all rights, obligations, and liabilities of a transferring insurer with respect to a closed block of reinsurance agreements that are included in a plan which does not include the transfer or assumption of any right, liability, or obligation of the transferring insurer with respect to a policy and to the extent such transfers are not preempted under the Nonadmitted Reinsurance Reform Act, Subtitle B of Title V of the Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-203.

(18) “Transferring insurer” means an insurance company that transfers an insurance obligation or risk to an assuming insurer pursuant to a plan and that is a domestic insurer or a foreign or alien insurance company that has a certificate of authority issued by the commissioner under chapter 101 of this title.

§ 7112. JURISDICTION; APPEALS

(a) The commissioner shall have exclusive jurisdiction with respect to the review and approval or denial of any insurance business transfer plan.

(b) Any appeal of an order of the commissioner issued under section 7116 of this chapter shall be to the supreme court only, and such review shall be on the record and not de novo.

§ 7113. EXCLUDED TRANSACTIONS

This chapter shall not apply to any transfer of a policy or reinsurance agreement if all parties with an interest in the policies and reinsurance agreements being transferred have approved the transfer and the transfer is otherwise permitted under applicable law, including chapter 157 of this title.

§ 7114. APPLICATION FOR APPROVAL; INSURANCE BUSINESS TRANSFER PLAN

(a) A transferring insurer and an assuming insurer shall file a plan with the commissioner and, at the time of filing, shall pay to the commissioner the fee described in subdivision 7117(a)(1) of this chapter.

(b) A plan shall include the following:

(1) a list of all parties, policies, and reinsurance agreements included in the plan and the identity of any parent company of the assuming insurer;

(2) certificates issued by the domicile regulators of the transferring insurer and the assuming insurer and, if applicable, a parent company that is a regulated insurance company, each attesting to the good standing of the transferring insurer, the assuming insurer, and the parent company under the insurance regulatory laws of the jurisdiction of their respective domicile regulator; provided that, if such certificates are not obtainable under the laws or practices of a domicile regulator, a certificate of an officer of the transferring insurer, the assuming insurer, or the parent company, as applicable, attesting to the foregoing;

(3) a statement describing the terms of each policy and reinsurance agreement, if any, regarding assignment and assumption of the rights, liabilities, and obligations of the transferring insurer with respect to each policy and reinsurance agreement;

(4) the most recent audited financial statements and annual reports filed by the transferring insurer and the assuming insurer with their respective domicile regulators and such financial information with respect to a parent company, if any, with respect to the plan that the commissioner may reasonably require;

(5) an actuarial study that quantifies the liabilities to be transferred to the assuming insurer under the policies and reinsurance agreements;

(6) the form and amount of consideration payable by the transferring insurer and proforma financial statements that demonstrate the solvency of the transferring insurer commensurate with the nature of the insurance business transfer after the transfer is effective;

(7) proforma financial statements that demonstrate the solvency of the assuming insurer commensurate with the nature of the insurance business transfer after the transfer is effective;

(8) officer certificates of the transferring insurer and the assuming insurer attesting that each has obtained all required internal approvals regarding the insurance business transfer;

(9) the form of notice to be provided to a party under this chapter and how such notice shall be provided;

(10) a statement regarding any pending dispute between the transferring insurer and any policyholder or party to a reinsurance agreement or of a disputed claim by any third party with respect to any policy or reinsurance agreement that is included in the plan;

(11) the statement described in subsection (c) of this section regarding the information and documents submitted as part of or with respect to a plan that are confidential;

(12) a plan summary that includes all information regarding the plan as reasonably required by the commissioner; and

(13) any other information that the commissioner may reasonably require with respect to the plan in the exercise of his or her reasonable discretion.

(c) The plan shall include a statement of the information and documentation included in the plan that the assuming insurer or the transferring insurer may request be given confidential treatment, which in all cases shall include all information identifying the persons insured under a policy and which may include any information that qualifies as a trade secret or other confidential research, development, or commercial information of the transferring insurer or the assuming insurer. The commissioner, subject to the exercise of his or her reasonable discretion, shall determine whether the information designated in such statement qualifies for confidential treatment. Any information qualifying for confidential treatment shall not be subject to subpoena and shall not be made public by the commissioner or by any other person; provided, however, the commissioner may in his or her discretion grant access to such information to public officers having jurisdiction over the regulation of insurance in any other state or country, to public officers of an international financial regulatory authority, or to state or federal law enforcement officers pursuant to a validly issued subpoena or search warrant, provided that such officers receiving the information agree in writing to hold it in a manner consistent with this section.

(d) Within 10 days of the date the application is filed and the fee payable under subsection (a) of this section is paid in full, the commissioner shall notify the transferring insurer and the assuming insurer whether the notice described in subsection (e) of this section shall be issued. If the commissioner notifies the transferring insurer and the assuming insurer that such notice shall not be issued, the commissioner shall specify any modifications to the plan and additional information or documentation with respect to the plan that are required before such notice shall be issued. If the commissioner notifies the transferring insurer and the assuming insurer that the notice described in subsection (e) of this section shall be issued, the commissioner shall set a date for a hearing on the plan as required under subsection (g) of this section.

(e) Within 30 days of the date the commissioner notifies the transferring insurer and the assuming insurer pursuant to subsection (d) of this section that notice shall be issued, the transferring insurer shall provide notice to all parties that:

(1) complies with the plan and the provisions of 3 V.S.A. § 809(b);

(2) includes the plan summary, the date, time, and place of the hearing on the plan, and a statement of the right of each party to file written comments on the plan with the commissioner or to appear and present evidence regarding the plan at the hearing or both;

(3) includes all other information reasonably required by the commissioner; and

(4) is published in two newspapers of general nationwide circulation on two separate occasions, as determined by the commissioner.

(f) During the comment period:

(1) any party may file written comments on the plan with the commissioner; and

(2) the transferring insurer and the assuming insurer shall file with the commissioner such additional documentation and information regarding the plan as the commissioner may reasonably require.

(g) The hearing on the plan shall be held not later than 60 days after the end of the comment period. Any party that participates in such a hearing shall bear its own costs of participation, including attorney's fees.

§ 7115. PLAN REVIEW

(a) The commissioner shall retain an actuary to conduct an actuarial study quantifying the liabilities to be transferred to the assuming insurer under the

policies and reinsurance agreements and is authorized to retain any other legal, financial, and examination services from outside the department to assist in the review of the plan.

(b) In reviewing the plan, the commissioner shall take into account all written comments filed with respect to the plan and evidence taken at the hearing on the plan and any other factors that the commissioner reasonably deems relevant with respect to the plan, but in all cases the commissioner shall consider and determine each of the following:

(1) the solvency of the transferring insurer and the assuming insurer both before and after the implementation of the proposed plan;

(2) the ability of the assuming insurer to comply with all requirements of a policy and reinsurance agreements in the case of a policy transfer or with all requirements of reinsurance agreements in the case of a reinsurance transfer, including administration of claims in process as of and after the effective date of the transfer;

(3) the plan does not materially adversely affect either the interests of objecting parties or the interests of policyholders; and

(4) the fairness of the plan to all parties.

§ 7116. ORDER

(a) Within 30 days of the date the hearing is held on the plan, the commissioner shall issue an order setting forth the amount of fees payable by the transferring insurer under subdivision 7117(a)(2) of this chapter, payable not later than 14 days after the date of such order. Upon receipt of such payment the commissioner shall within five days issue an order that complies with subsection 7118(c) of this chapter approving or disapproving the plan in whole or in part. Whenever it is not practicable to issue an order within 30 days, the commissioner may extend such time up to an additional 30 days. If the order approves the plan, it shall:

(1) set forth the fee payable by the assuming insurer under subsection 7117(b) of this chapter, which fee shall be payable not later than 14 days after the date of such order;

(2) not be effective until such time as the fees described in this subsection have been paid in full.

(b) An order issued pursuant to subsection (a) of this section approving the plan shall transfer to the assuming insurer all of the transferring insurer's rights, obligations, liabilities, and assets with respect to each policy and reinsurance agreement that is subject to the plan such that the transferring insurer has no further rights, obligations, or liabilities with respect to such

policies and reinsurance agreements and the assuming insurer has all such rights, obligations, and liabilities as if it, instead of the transferring insurer, were the original party to such agreement.

(c) The commissioner may issue any other orders that he or she reasonably deems necessary to fully implement an order issued under subsection (a) of this section.

(d) No order issued under subsection (a) or (c) of this section shall be construed to modify or amend the terms of a policy or reinsurance agreement, other than with respect to matters specifically subject to modification or amendment under this chapter.

(e) If a policy or reinsurance agreement contains a provision prohibiting the transfer of the policy or reinsurance agreement without the consent of the policyholder or other person, then such policy or reinsurance agreement shall not be transferred under this chapter unless the applicable policyholder or other person provides written consent to the proposed transfer.

(f) If a party objects to a plan, the commissioner may not approve the plan with respect to such party unless the commissioner determines that the plan:

- (1) does not materially adversely affect the objecting party;
- (2) is in the public interest; and
- (3) otherwise complies with the requirements of this chapter.

(g) At any time before the commissioner issues the order described in subsection (a) of this section, the transferring insurer and the assuming insurer may file an amendment to the plan subject to rules adopted by the commissioner.

(h) At any time before the commissioner issues the order described in subsection (a) of this section, either the transferring insurer or the assuming insurer may withdraw the plan without prejudice. Upon such withdrawal, however, the commissioner shall issue an order setting forth the amount of fees payable by the transferring insurer under subdivision 7117(a)(2) of this chapter, payable not later than 14 days after the date of such order.

§ 7117. FEES AND COSTS

(a) To cover the costs of processing and reviewing a plan under this chapter, the transferring insurer shall pay to the commissioner the following nonrefundable fees at the times set forth in subsections 7114(a) and 7116(a) of this chapter:

- (1) an administrative fee in the amount of \$30,000.00; and

(2) the reasonable cost of persons retained by the commissioner under subsection 7115(a) of this chapter.

(b) When a plan is approved, the assuming insurer shall pay the commissioner a transfer fee equal to the sum of:

(1) One percent of the first \$100,000,000.00 of the gross liabilities transferred, including direct and assumed unpaid claims, losses, and loss adjustment expenses with no reductions for amounts ceded; and

(2) 0.5 percent of the gross liabilities transferred, including direct and assumed unpaid claims, losses, and loss adjustment expenses with no reductions for amounts ceded that exceed \$100,000,000.00.

(c) All fees and payments received by the department under subsection 7117(a) of this chapter and 10 percent of the transfer fee under subsection 7117(b) of this chapter shall be credited to the insurance regulatory and supervision fund under section 80 of this title. The remaining 90 percent of the transfer fee shall be deposited directly into the general fund.

§ 7118. APPLICABLE LAWS

(a) In the event of any conflict between a provision of this chapter and any other provision of this title, such provision of this chapter shall control. Without limitation of the foregoing, chapter 157 of this title shall not apply to any insurance business transfer under this chapter.

(b) A Vermont insured shall be entitled to receive any benefit under subchapter 9 (property and casualty insurance guaranty association) of chapter 101 of this title for claims arising out of any policy that is subject to an insurance business transfer under this chapter.

(c) A proposed insurance business transfer shall be a “contested case” under chapter 25 of Title 3, except that a “party” shall be limited to the transferring insurer, the assuming insurer, each counterparty to a reinsurance agreement, each policyholder in the case of a policy transfer only, and any other person the commissioner approves as a party with respect to such proceeding.

§ 7119. ASSUMING INSURERS

No assuming insurer shall be a party to an insurance business transfer under this chapter unless:

(1) its board of directors or committee of managers holds at least one meeting each year in this state;

(2) it maintains its principal place of business in this state; and

(3) it appoints a registered agent to accept service of process and to otherwise act on its behalf in this state; provided that whenever such registered agent cannot with reasonable diligence be found at the registered office of the assuming insurer, the secretary of state shall be an agent of such insurer upon whom any process, notice, or demand may be served.

§ 7120. POSTING OF PLANS ON WEBSITE

The commissioner shall require that all plans filed with the department are posted on the department's website, along with any other notice or other information the commissioner deems appropriate.

§ 7121. REGULATION OF INSURERS AND SERVICE PROVIDERS

(a) Except as provided in subsection (b) of this section, a transferring insurer and an assuming insurer shall be subject to all provisions of this title and all rules adopted by the commissioner under this title applicable to property and casualty insurance companies domiciled or licensed in this state.

(b) The commissioner shall adopt rules regarding the provision of services to an assuming insurer by persons other than any director, officer, or employee of such assuming insurer with respect to the administration of policies and reinsurance agreements assumed by such assuming insurer pursuant to an insurance business transfer, including any licensing or other requirements.

(c) The commissioner may adopt any other rules necessary or appropriate to carry out the provisions of this chapter. Such rules shall ensure that the insurance business transfers authorized by this chapter take into account any rights and obligations arising under the laws of the domicile jurisdiction of any affected insurers and policyholders.

Sec. 4. INSURANCE BUSINESS TRANSFERS; REPORTS

(a) Interim report. On or before January 15, 2013, the commissioner of financial regulation shall submit to the house committee on commerce and economic development and the senate committee on finance a report summarizing the rulemaking process authorized under Sec. 3 of this act, including the major issues raised by interested parties. The interim report shall include also a description of the number and nature of any insurance business transfer plans expected to be filed under 8 V.S.A. chapter 147, as well as the commissioner's recommendations, if any, for statutory amendments to 8 V.S.A. chapter 147.

(b) Final report. On or before January 15, 2014, the commissioner of financial regulation shall submit to the house committee on commerce and economic development and the senate committee on finance a report

describing the number and nature of insurance business transfer plans filed under 8 V.S.A. chapter 147 and their current status. The report shall include also the commissioner's recommendations, if any, for statutory amendments to 8 V.S.A. chapter 147.

Sec. 5. EFFECTIVE DATES

(a) This section and Secs. 1, 2, and 4 of this act shall take effect on passage.

(b) Sec. 3 of this act shall take effect on passage only with respect to the rulemaking authority granted to the commissioner of financial regulation under that section. The remaining provisions of Sec. 3 of this act shall take effect May 1, 2013, provided all rules required under Sec. 3 of this act have been adopted.

Which was agreed to.

Thereupon, **Rep. Wilson of Manchester** asked and was granted leave of the House to withdraw the report of the committee on Ways and Means and the report of the committee on Commerce and Economic Development, as amended, was agreed to and third reading ordered.

Message from the Senate No. 44

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 57. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

The Senate has considered House proposals of amendment to the following Senate bills and has refused to concur therein and asks for Committees of Conference upon the disagreeing votes of the two Houses to which the President announced the appointment as members of such Committees on the part of the Senate:

S. 116. An act relating to probate proceedings.

Senator Sears
Senator Flory
Senator Nitka

S. 199. An act relating to immunization exemptions and the immunization pilot program.

Senator Mullin
Senator Ayer
Senator Campbell

Proposal of Amendment Agreed to; Third Reading Ordered

S. 106

Rep. Higley of Lowell, for the committee on Government Operations, to which had been referred Senate bill, entitled

An act relating to miscellaneous changes to municipal government law

Recommended that the House propose to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Violations; Penalties * * *

Sec. 1. 10 V.S.A. § 2675 is amended to read:

§ 2675. PENALTIES

A person who commits a violation under subsection 2645(a) or 2648(a) of this title shall be subject to a fine of not more than ~~\$25.00~~ \$75.00 per violation. In the case of a violation which continues after the issuance of a fire prevention complaint, each day's continuance may be deemed a separate violation.

Sec. 2. 24 V.S.A. § 1974a is amended to read:

§ 1974a. ENFORCEMENT OF CIVIL ORDINANCE VIOLATIONS

(a) A civil penalty of not more than ~~\$500.00~~ \$800.00 may be imposed for a violation of a civil ordinance. Each day the violation continues shall constitute a separate violation.

(b) All civil ordinance violations, except municipal parking violations, and all continuing civil ordinance violations, where the penalty is ~~\$500.00~~ \$800.00 or less, shall be brought before the judicial bureau pursuant to Title 4 and this chapter. If the penalty for all continuing civil ordinance violations is greater than ~~\$500.00~~ \$800.00, or injunctive relief, other than as provided in subsection (c) of this section, is sought, the action shall be brought in the criminal division of the superior court, unless the matter relates to enforcement under chapter 117 of this title, in which instance the action shall be brought in the environmental division of the superior court.

* * *

Sec. 3. 24 V.S.A. § 4451 is amended to read:

§ 4451. ENFORCEMENT; PENALTIES

(a) Any person who violates any bylaw after it has been adopted under this chapter or who violates a comparable ordinance or regulation adopted under prior enabling laws shall be fined not more than ~~\$100.00~~ \$200.00 for each offense. No action may be brought under this section unless the alleged offender has had at least seven days' warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation of the bylaw or ordinance after the seven-day notice period and within the next succeeding 12 months. The seven-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. In default of payment of the fine, the person, the members of any partnership, or the principal officers of the corporation shall each pay double the amount of the fine. Each day that a violation is continued shall constitute a separate offense. All fines collected for the violation of bylaws shall be paid over to the municipality whose bylaw has been violated.

(b) Any person who, being the owner or agent of the owner of any lot, tract, or parcel of land, lays out, constructs, opens, or dedicates any street, sanitary sewer, storm sewer, water main, or other improvements for public use, travel, or other purposes or for the common use of occupants of buildings abutting thereon, or sells, transfers, or agrees or enters into an agreement to sell any land in a subdivision or land development whether by reference to or by other use of a plat of that subdivision or land development or otherwise, or erects any structure on that land, unless a final plat has been prepared in full compliance with this chapter and the bylaws adopted under this chapter and has been recorded as provided in this chapter, shall be fined not more than ~~\$100.00~~ \$200.00, and each lot or parcel so transferred or sold or agreed or included in a contract to be sold shall be deemed a separate violation. All fines collected for these violations shall be paid over to the municipality whose bylaw has been violated. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the seller or transferor from these penalties or from the remedies provided in this chapter.

* * * Damages by Dogs * * *

Sec. 4. REPEAL

20 V.S.A. §§ 3741 (election of remedy), 3742 (notice of damage; appraisal), 3743 (examination of certificate), 3744 (fees and travel expenses).

3745 (identification and killing of dogs), 3746 (action against town), and 3747 (action by town against owner of dogs) are repealed.

Sec. 5. 20 V.S.A. § 3622 is amended to read:

§ 3622. FORM OF WARRANT

Such warrant shall be in the following form:

State of Vermont:)
)
 _____ County, ss.)

To _____, constable or police officer of the town or city of _____:

By the authority of the state of Vermont, you are hereby commanded forthwith to impound ~~and destroy in a humane way or cause to be destroyed in a humane way~~ all dogs and wolf-hybrids not duly licensed according to law, except as exempted by ~~section 20 V.S.A. § 3587 of 20 V.S.A.;~~ and you are further required to make and return complaint against the owner or keeper of any such dog or wolf-hybrid. A dog or wolf-hybrid that is impounded may be transferred to an animal shelter or rescue organization for the purpose of finding an adoptive home for the dog or wolf-hybrid. If the dog or wolf-hybrid cannot be placed in an adoptive home or transferred to a humane society or rescue organization within ten days, or a greater number of days established by the municipality, the dog or wolf-hybrid may be destroyed in a humane way.

Hereof fail not, and due return make of this warrant, with your doings thereon, within 90 days from the date hereof, stating the number of dogs or wolf-hybrids destroyed and the names of the owners or keepers thereof, and whether all unlicensed dogs or wolf-hybrids in such town (or city) have been destroyed, and the names of persons against whom complaints have been made under the provisions of 20 V.S.A. chapter 193, subchapters 1, 2, and 4 ~~of chapter 193 of 20 V.S.A.,~~ and whether complaints have been made and returned against all persons who have failed to comply with the provisions of such subchapter.

Given under our (my) hands at _____ aforesaid, this _____ day of _____, 19 20 _____.

Legislative Body

* * * Taxes * * *

Sec. 6. 24 V.S.A. § 1535 is amended to read:

§ 1535. ABATEMENT

(a) The board may abate in whole or part taxes, interest, ~~and~~ or collection fees, other than those arising out of a corrected classification of homestead or nonresidential property, accruing to the town in the following cases:

* * *

* * * General Municipal Powers and Duties * * *

Sec. 7. 24 V.S.A. § 1972 is amended to read:

§ 1972. PROCEDURE

(a)(1) The legislative body of a municipality desiring to adopt an ordinance or rule may adopt it subject to the petition set forth in section 1973 of this title and shall cause it to be entered in the minutes of the municipality and posted in at least five conspicuous places within the municipality. ~~The full text of the ordinance or rule, or a concise summary of it including a statement of purpose, principal provisions, and table of contents or list of section headings, shall be published~~ legislative body shall arrange for one formal publication of the ordinance or rule or a concise summary thereof in a newspaper circulating in the municipality on a day not more than 14 days following the date when the proposed provision is so adopted. Along with the concise summary shall be published a reference to a place within the municipality where the full text may be examined. When the text or concise summary of an ordinance is published, the Information included in the publication shall be the name of the municipality; the name of the municipality's website, if the municipality actively updates its website on a regular basis; the title or subject of the ordinance or rule; the name, telephone number, and mailing address of a municipal official designated to answer questions and receive comments on the proposal; and where the full text may be examined. The same notice shall explain citizens' rights to petition for a vote on the ordinance or rule at an annual or special meeting as provided in section 1973 of this title, and shall also contain the name, address and telephone number of a person with knowledge of the ordinance or rule who is available to answer questions about it.

(2) Unless a petition is filed in accordance with section 1973 of this title, the ordinance or rule shall become effective 60 days after the date of its adoption, or at such time following the expiration of 60 days from the date of its adoption as is determined by the legislative body. If a petition is filed in

accordance with section 1973 of this title, the taking effect of the ordinance or rule shall be governed by ~~section~~ subsection 1973(e) of this title.

* * *

(c) The procedure herein provided shall apply to the adoption of any ordinance or rule by a municipality unless another procedure is provided by charter, special law, or particular statute.

Sec. 8. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(4) To regulate the operation and use of vehicles of every kind including the power: to erect traffic signs and signals; to regulate the speed of vehicles subject to 23 V.S.A. §§ ~~1141-1147~~ chapter 13, subchapter 12; to regulate or exclude the parking of all vehicles; and to provide for waiver of the right of appearance and arraignment in court by persons charged with parking violations by payment of specified fines within a stated period of time.

* * *

(6) To regulate the location, installation, maintenance, repair, and removal of utility poles, wires and conduits, water pipes or mains, or gas mains and sewers, upon, under, or above public highways or public property of the municipality.

(7) To regulate or prohibit the erection, size, structure, contents, and location of signs, posters, or displays on or above any public highway, sidewalk, lane, or alleyway of the municipality and to regulate the use, size, structure, contents, and location of signs on private buildings or structures.

(8) To regulate or prohibit the use or discharge, but not possession of, firearms within the municipality or specified portions thereof, provided that an ordinance adopted under this subdivision shall be consistent with section 2295 of this title and shall not prohibit, reduce, or limit discharge at any existing sport shooting range, as that term is defined in 10 V.S.A. § 5227-.

(9) To license or regulate itinerant vendors, peddlers, door-to-door salesmen, and those selling goods, wares, merchandise, or services who engage in a transient or temporary business, or who sell from an automobile, truck,

wagon, or other conveyance, excepting persons selling fruits, vegetables, or other farm produce.

* * *

(11) To regulate, license, tax, or prohibit circuses, carnivals and menageries, and all plays, concerts, entertainments, or exhibitions of any kind for which money is received.

* * *

(14) To define what constitutes a public nuisance, and to provide procedures and take action for its abatement or removal as the public health, safety, or welfare may require.

* * *

(16) To name and rename streets and to number and renumber lots pursuant to section ~~4421~~ 4463 of this title.

* * *

* * * Poor Relief * * *

Sec. 9. 24 V.S.A. § 1236 is amended to read:

§ 1236. POWERS AND DUTIES IN PARTICULAR

The manager shall have authority and it shall be his or her duty:

* * *

(2) To perform all duties now conferred by law upon the ~~selectmen~~ selectboard, except that he or she shall not prepare tax bills, sign orders on the general fund of the town, ~~other than orders for poor relief~~, call special or annual town meetings, lay out highways, establish and lay out public parks, make assessments, award damages, act as member of the board of civil authority, nor make appointments to fill vacancies which the ~~selectmen are~~ selectboard is now authorized by law to fill; but he or she shall, in all matters herein excepted, render the ~~selectmen~~ selectboard such assistance as ~~they~~ it shall require;

* * *

(4) To have charge and supervision of all public town buildings, repairs thereon, and repairs of buildings of the town school district upon requisition of the school directors; and all building done by the town or town school district, unless otherwise specially voted, shall be done under his or her charge and supervision;

(5) To perform all the duties now conferred by law upon the road commissioner of the town, including the signing of orders; provided, however, that when an incorporated village lies within the territorial limits of a town which is operating under a town manager, and such village fails to pay to such town for expenditure on the roads of the town outside the village, at least ~~fifteen~~ 15 percent of the last highway tax levied in such village, the legal voters residing in such town, outside such village, may elect one or two road commissioners who shall have and exercise all powers of road commissioner within that part of such town as lies outside such village;

* * *

Sec. 10. 24 V.S.A. § 1762 is amended to read:

§ 1762. LIMITS

(a) A municipal corporation shall not incur an indebtedness for public improvements which, with its previously contracted indebtedness, shall, in the aggregate, exceed ten times the amount of the last grand list of such municipal corporation. Bonds or obligations given or created in excess of the limit authorized by this subchapter and contrary to its provisions shall be void.

(b) However, the provisions of this subchapter as to the debt limit shall not apply to bonds issued under sections 1752; or 1754 ~~and 1769~~ of this title, relating to the ordinary expenses of a municipality; ~~nor to bonds issued for poor relief.~~

Sec. 11. REPEAL

24 V.S.A. §§ 1769 (notes and bonds for poor relief) and 1770 (application) are repealed.

* * * Glebe Lands * * *

Sec. 12. REPEAL

24 V.S.A. §§ 2404 (rents of other lands, how divided and applied) and 2405 (contract under previous law not affected) are repealed.

* * * Municipal Planning and Development * * *

Sec. 13. 24 V.S.A. § 4303 is amended to read:

§ 4303. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context otherwise requires:

* * *

(33) "Public road" means a state highway as defined in 19 V.S.A. § 1 or a class 1, 2, or 3 town highway as defined in 19 V.S.A. § 302(a). A municipality may, at its discretion, define a public road to also include a class 4 town highway as defined in 19 V.S.A. § 302(a).

Sec. 14. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

* * *

(3) Required frontage on, or access to, public roads, class 4 town highways, or public waters. Land development may be permitted on lots that do not have frontage either on a public road, class 4 town highway, or public waters, provided that access through a permanent easement or right-of-way has been approved in accordance with standards and process specified in the bylaws. This approval shall be pursuant to subdivision bylaws adopted in accordance with section 4418 of this title, or where subdivision bylaws have not been adopted or do not apply, through a process and pursuant to standards defined in bylaws adopted for the purpose of assuring safe and adequate access. Any permanent easement or right-of-way providing access to such a road or waters shall be at least 20 feet in width.

* * *

Sec. 15. 24 V.S.A. § 4442 is amended to read:

§ 4442. ADOPTION OF BYLAWS AND RELATED REGULATORY TOOLS; AMENDMENT OR REPEAL

* * *

(c) Routine adoption.

(1) A bylaw, bylaw amendment, or bylaw repeal shall be adopted by a majority of the members of the legislative body at a meeting that is held after the final public hearing, and shall be effective 21 days after adoption unless, by action of the legislative body, the bylaw, bylaw amendment, or bylaw repeal is warned for adoption by the municipality by Australian ballot at a special or regular meeting of the municipality.

(2) However, a rural town ~~with a population of fewer than 2,500 persons as defined in section 4303 of this chapter~~, by vote of that town at a special or regular meeting duly warned on the issue, may elect to require that bylaws, bylaw amendments, or bylaw repeals shall be adopted by vote of the town by Australian ballot at a special or regular meeting duly warned on the issue. That

procedure shall then apply until rescinded by the voters at a regular or special meeting of the town.

* * *

* * * Property; Filing of Land Plats * * *

Sec. 16. 27 V.S.A. § 1404(b) is amended to read:

(b) Survey plats prepared and filed in accordance with ~~section 4416 of Title 24 V.S.A. § 4463~~ shall be exempt from subdivision ~~1403(b)(6)~~ 1403(b)(5) of this title. Survey plats or plans filed under this exemption shall contain a title area, the location of the land and scale expressed in engineering units. In addition, they shall include inscriptions and data required by zoning and planning boards.

Sec. 17. 27 V.S.A. § 1403(b) is amended to read:

(b) Plats filed in accordance with this chapter shall also conform with the following further requirements:

* * *

(8) The recordable plat materials shall be composed in one of the following processes:

(A) fixed-line photographic process on stable base polyester film; or

(B) pigment ink on stable base polyester film or linen tracing cloth.

Sec. 18. REPEAL

27 V.S.A. § 1403(b)(8) (process for recordable plat materials) is repealed on July 1, 2013.

* * * Unorganized Towns and Gores * * *

Sec. 19. 24 V.S.A. § 1408 is amended to read:

§ 1408. SUPERVISOR; GENERAL DUTIES

~~Such~~ The supervisor shall act as ~~selectman~~ a ~~select~~person in matters of road encroachment, planning, and related bylaws, as school director and truant officer, as constable, as collector of taxes and, as town clerk in the matter of licensing dogs, and as town clerk and board of civil authority in the matter of tax appeals from the decisions of the board of appraisers.

Sec. 20. 32 V.S.A. § 4408 is amended to read:

§ 4408. HEARING BY BOARD

(a) On the date so fixed by the town clerk and from day to day thereafter, the board of civil authority shall hear such appellants as appear in person or by agents or attorneys, until all such objections have been heard and considered. All objections filed in writing with the board of civil authority at or prior to the time fixed for hearing appeals shall be determined by the board notwithstanding that the person filing the objections fails to appear in person, or by agent or attorney.

~~(b) Ad hoc board for unorganized towns and gores. For purposes of hearing appeals under this subchapter only, the supervisor shall create an ad hoc board composed of:~~

~~(1) the supervisor; and~~

~~(2) one member from each adjoining municipality's board of civil authority, to be appointed by each respective board of civil authority, representing no fewer than three and no more than five of the adjoining municipalities, at the discretion of the supervisor. [Repealed.]~~

~~(c) The ad hoc board provided for in subsection (b) of this section shall, for purposes of hearing appeals under this subchapter only, act as a board of civil authority, and an aggrieved party shall have further appeal rights as though the party had appealed to a board of civil authority. [Repealed.]~~

* * * Unified Towns and Gores in Essex County * * *

Sec. 21. REIMBURSEMENT FOR GRIEVANCE HEARING

EXPENDITURES

(a) A unified town or gore shall be entitled to claim reimbursement for expenditures incurred in conducting grievance hearings when:

(1) the hearing was held between July 1, 2009 and February 23, 2011;

(2) the expenditures related to hiring a person or persons to participate in the grievance hearing; and

(3) the expenditures were necessary to comply with 32 V.S.A. § 4408.

(b) Claims shall be filed with the department of taxes within 60 days of the effective date of this act, with receipts or other documentation as the department may require.

* * * Public Service; Renewable Pilot Program * * *

Sec. 22. 30 V.S.A. § 8102 is amended to read:

§ 8102. INCENTIVES; ~~CUSTOMER CONNECTIONS~~

~~(a) Notwithstanding any other provision of law, the~~ The clean energy development fund created under ~~10 V.S.A. § 6523~~ section 8015 of this title shall provide at least \$100,000.00 in incentives to customers who will connect to a certified Vermont village green renewable project. Any such incentive shall be applied by the customer to the cost of constructing the customer's connection to the project.

~~(b) Notwithstanding the provisions of subsection (a) of this section or any other law, on and after April 1, 2012, the clean energy development fund shall make up to \$100,000.00 of funds that would otherwise have been available to customers connecting to Vermont village green renewable projects under this section available to other district heating on a competitive basis. The use of such funds shall not be limited to customer connections. For the purpose of this subsection, it shall not be necessary that the district heating be proposed by a municipality, serve a downtown development district or growth center under 24 V.S.A. § 2793 or 2793c, or obtain certification under this chapter.~~

* * * Auditor of Accounts; Internal Financial Controls * * *

Sec. 23. 32 V.S.A. § 163 is amended to read:

§ 163. DUTIES OF THE AUDITOR OF ACCOUNTS

In addition to any other duties prescribed by law, the auditor of accounts shall:

* * *

~~(6) Report on or before February 15 of each year to the house and senate committees on appropriations in which he or she shall summarize significant findings, and make such comments and recommendations as he or she finds necessary. [Repealed.]~~

* * *

(11) Make available to all counties, municipalities, and supervisory unions as defined in 16 V.S.A. § 11(23) and supervisory districts as defined in 16 V.S.A. § 11(24) a document designed to determine the internal financial controls in place to assure proper use of all public funds. The auditor shall consult with the Vermont School Boards Association, the Vermont Association of School Business Officials, and the Vermont League of Cities and Towns in the development of the document. The auditor shall strive to limit the document to one letter-size page. The auditor shall also make available to public officials charged with completing the document instructions to assist in its completion.

(12) Make available to all county, municipality, and school district officials with fiduciary responsibilities an education program. The program shall provide instruction in fiduciary responsibility, faithful performance of duties, the importance and components of a sound system of internal financial controls, and other topics designed to assist the officials in performing the statutory and fiduciary duties of their offices. The auditor shall consult with the Vermont School Boards Association, the Vermont Association of School Business Officials, and the Vermont League of Cities and Towns in the development of the education program.

Sec. 24. AUDITOR WEBSITE; AUDIT FINDINGS

(a) By July 1, 2012, the auditor of accounts shall prominently post on his or her official state website the following information:

(1) a summary of all embezzlements and other financial fraud against any agency or department of the state committed within the last five years, whether committed by a state employee, contractor, or other person. The summary shall include any charges brought with respect to or adjudication of that embezzlement or financial fraud and shall be updated within 30 days of the auditor of account's being informed of the embezzlement or other financial fraud and any charges or adjudication; and

(2)(A) all reports with findings that result from audits conducted under § 32 V.S.A. § 163(1); and

(B) a summary of significant recommendations arising out of the audits that are contained in audit reports conducted under 32 V.S.A. § 163(1) and issued since January 1, 2012, and the dates on which corrective actions were taken related to those recommendations. Recommendation follow-up shall be conducted at least biennially and for at least four years from the date of the audit report.

(b) The auditor of accounts shall notify the general assembly of the initial posting made on his or her website pursuant to subsection (a) of this section by electronic or other means.

* * * Municipalities; Internal Financial Controls * * *

Sec. 25. 24 V.S.A. § 832 is amended to read:

§ 832. BONDS; REQUIREMENTS

Before the school directors, constable, road commissioner, collector of taxes, treasurer, assistant treasurer when appointed by the ~~selectmen~~ selectboard, and clerk, and any other officer or employee of the town who has authority to receive or disburse town funds enter upon the duties of their offices, the ~~selectmen~~ selectboard shall require each to give a bond conditioned

for the faithful performance of his or her duties; the school directors, to the town school district; the other named officers, to the town. The treasurer, assistant treasurer when appointed by the ~~selectmen~~ selectboard, and collector shall also be required to give a bond to the town school district for like purpose. All such bonds shall be in sufficient sums and with sufficient sureties as prescribed and approved by the ~~selectmen~~ selectboard. If the ~~selectmen~~ selectboard at any time ~~consider~~ considers a bond of any such officer or employee to be insufficient, ~~they~~ it may require, by written order, ~~such~~ the officer or employee to give an additional bond in such sum as ~~they deem~~ it deems necessary. If an officer or employee, so required, neglects for ten days after such request to give such original or additional bond, his or her office shall be vacant. A bond furnished pursuant to the provisions of this section shall not be valid if signed by any other officer of the same municipality as surety thereon.

Sec. 26. 24 V.S.A. § 872 is amended to read:

§ 872. ~~SELECTMEN~~ SELECTBOARD; GENERAL POWERS AND
DUTIES

(a) The ~~selectmen~~ selectboard shall have the general supervision of the affairs of the town and shall cause to be performed all duties required of towns and town school districts not committed by law to the care of any particular officer.

(b) The selectboard shall annually, on or before July 31, acknowledge receipt of and review the document made available by the auditor of accounts pursuant to 32 V.S.A. § 163(11) regarding internal financial controls and which has been completed and provided to the selectboard by the treasurer pursuant to section 1571 of this title.

(c) The selectboard may require any other officer or employee of the town who has the authority to receive or disburse town funds to complete and provide to the selectboard a copy of the document made available by the auditor of accounts pursuant to 32 V.S.A. § 163(11). The officer or employee shall complete and provide the document to the selectboard within 30 days of the selectboard's requirement. The selectboard shall acknowledge receipt of and review the completed document within 30 days of receiving it from the officer or employee.

Sec. 27. 24 V.S.A. § 1571 is amended to read:

§ 1571. ACCOUNTS; REPORTS

(a) The town treasurer shall keep an account of moneys, bonds, notes, and evidences of debt paid or delivered to him or her, and of moneys paid out by him or her for the town and the town school district, which accounts shall at all times be open to the inspection of persons interested.

(b) Moneys received by the town treasurer on behalf of the town may be invested and reinvested by the treasurer with the approval of the legislative body.

(c) The town treasurer shall file quarterly reports with the legislative body regarding his or her actions set forth in subsections (a) and (b) of this section.

(d) The town treasurer shall annually, on or before June 30, complete and provide to the selectboard a copy of the document made available by the auditor of accounts pursuant to 32 V.S.A. § 163(11) regarding internal financial controls.

Sec. 28. 24 V.S.A. § 1686 is amended to read:

§ 1686. PENALTY

(a) At any time in their discretion, town auditors may, and if requested by the selectboard, shall, examine and adjust the accounts of any town officer authorized by law to receive or disburse money belonging to the town.

* * *

* * * Supervisory Unions and Supervisory Districts;

Internal Financial Controls * * *

Sec. 29. 16 V.S.A. § 242a is added to read:

§ 242a. INTERNAL FINANCIAL CONTROLS

(a) The superintendent or his or her designee shall annually, on or before December 31, complete and provide to the supervisory union board and to all member district boards a copy of the document regarding internal financial controls made available by the auditor of accounts pursuant to 32 V.S.A. § 163(11).

(b) The supervisory union board shall review the document provided by the superintendent within two months of receiving it.

Sec. 30. EFFECTIVE DATE

This act shall take effect on July 1, 2012 except for the following sections, which shall take effect on passage:

- (1) Sec. 22 (amending 30 V.S.A. § 8102); and
- (2) Sec. 24 (auditor website; audit findings).

and that after passage the title of the bill be amended to read: "An act relating to miscellaneous changes to municipal government law and to internal financial controls"

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment offered by the committee Government Operations agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 203

Rep. Strong of Albany, for the committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to child support enforcement

Reported that it has considered the same and recommended that the House propose to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 4 V.S.A. § 466(f) is added to read:

(f) When an obligor is referred to an employment services program, the magistrate may require the program to file periodic written reports with the court regarding the obligor's progress and cooperation with the program requirements. Such reports shall be admissible in an enforcement or contempt proceeding without the appearance of a witness from the program unless there is a dispute with respect to the authenticity of the report or the obligor disputes the facts set forth in the report concerning the obligor's performance and the facts in dispute are relevant to the determination of the issues before the court.

Sec. 2. 15 V.S.A. § 603 is amended to read:

§ 603. CONTEMPT

~~(a) A person who disobeys a lawful order or decree of a court or judge, made under the provisions of this chapter, may be proceeded against for contempt as provided by 12 V.S.A. § 122. The department for children and families may institute such proceedings in all cases in which a party or dependent children of the parties are the recipients of financial assistance from the department~~ Nonfinancial obligations. If a person disobeys a lawful order of the family division made under the provisions of this chapter and the order does not relate to payment of a financial obligation, the person may be subject to proceedings for civil contempt as provided by 12 V.S.A. § 122.

~~(b) For contempt of an order or decree made under the provisions of this chapter, the court may:~~

~~(1) order restitution to the department;~~

~~(2) order payments be made to the department for distribution;~~

~~(3) order a party to serve not more than 30 days of preapproved furlough as provided in 28 V.S.A. § 808(a)(7); or~~

~~(4) make such other orders or conditions as it deems proper~~

Financial obligations. If a person disobeys a lawful order of the family division made under the provisions of this chapter and the order creates a financial obligation, including payment of child support, spousal maintenance, or a lump sum property settlement, the person may be subject to proceedings for civil contempt as provided by 12 V.S.A. § 122 and the provisions set forth herein.

(c) Parties. The office of child support may institute proceedings in all cases in which the office provides services under Title IV-D of the Social Security Act to either or both parties.

(d) Notice of hearing. The person against whom the contempt proceedings are brought shall be served with a notice of a hearing ordering the person to appear at the hearing to show cause why he or she should not be held in contempt. The notice shall inform the person that failure to appear at the hearing may result in the issuance of an arrest warrant directing a law enforcement officer to transport the person to court.

(e) Rebuttable presumption of ability to comply. A person who is subject to a court-ordered financial obligation and who has received notice of such obligation shall be presumed to have the ability to comply with the order. In a contempt proceeding, the noncomplying party may overcome the presumption by demonstrating that, due to circumstances beyond his or her control, he or she did not have the ability to comply with the court-ordered obligation.

(f) Finding of contempt. A person may be held in contempt of court if the court finds all of the following:

(1) The person knew or reasonably should have known that he or she was subject to a court-ordered obligation.

(2) The person has failed to comply with the court order. If the failure to comply involves a failure to pay child support or spousal maintenance, the person who brings the action has the burden to establish the total amount of the obligation, the amount unpaid, and any unpaid surcharges or penalties.

(3) The person has willfully violated the court order in that he or she had the ability to comply with the order and failed to do so.

(g) Findings of fact. The court shall make findings of fact on the record based on the evidence presented which may include direct or circumstantial evidence.

(h) Order upon finding of contempt. Upon a finding of contempt, the court shall determine appropriate sanctions to obtain compliance with the court order. The court may order any of the following:

(1) The person to perform a work search and report the results of his or her search to the court or to the office of child support, or both.

(2) The person to participate in an employment services program, which may provide referrals for employment, training, counseling, or other services, including those listed in section 658 of this title. Any report provided from such a program shall be presumed to be admissible without the appearance of a witness from the program in accordance with the provisions in 4 V.S.A. § 466(f).

(3) The person to appear before a reparative board. The person shall return to court for further orders if:

(A) the reparative board does not accept the case; or

(B) the person fails to complete the reparative board program to the satisfaction of the board in a time deemed reasonable by the board.

(4) Incarceration of the person unless he or she complies with purge conditions established by the court. A court may order payment of all or a portion of the unpaid financial obligation as a purge condition, providing that the court finds that the person has the present ability to pay the amount ordered and sets a date certain for payment. If the purge conditions are not met by the date established by the court and the date set for payment is within 30 days of finding of ability to pay, the court may issue a mittimus placing the contemnor in the custody of the commissioner of corrections.

(A) As long as the person remains in the custody of the commissioner of corrections, the court shall schedule the case for a review hearing every 15 days.

(B) The commissioner shall immediately release such a person from custody upon the contemnor's compliance with the purge conditions ordered by the court.

(C) The commissioner may, in his or her sole discretion, place the contemnor on home confinement furlough or work crew furlough without prior approval of the court.

(5) Orders and conditions as the court deems appropriate.

(i) Finding of present ability to pay. A finding of present ability to pay a purge condition shall be effective for up to 30 days from the date of the finding. In determining present ability to pay for purposes of imposing necessary and appropriate coercive sanctions to bring the noncomplying person into compliance and purge the contempt, the court may consider:

(1) A person's reasonable ability to use or access available funds or other assets to make all or a portion of the amount due by a date certain set by the court.

(2) A person's reasonable ability to obtain sufficient funds necessary to pay all or a portion of the amount due by a date certain set by the court, as demonstrated by the person's prior payment history and ability to comply with previous contempt orders.

Sec. 3. 15 V.S.A. § 653 is amended to read:

§ 653. DEFINITIONS

As used in this subchapter:

(1) "Available income" means gross income, less:

(A) the amount of spousal support or preexisting child support obligations, including any court-ordered periodic repayment toward arrearages, actually paid;

* * *

(7) "Self-support reserve" means the needs standard established annually by the commissioner for children and families which shall be an amount sufficient to provide a reasonable subsistence compatible with decency and health. The needs standard shall take into account the available income of the parent responsible for payment of child support, and calculated at 120 percent of the United States Department of Health and Human Services poverty guideline per year for a single individual.

* * *

Sec. 4. 15 V.S.A. § 658 is amended to read:

§ 658. SUPPORT

* * *

(d) The court or magistrate may order ~~a parent who is in default of a child support order,~~ an obligor or a parent who will become the obligor pending an anticipated child support order to participate in employment, educational, or ~~training-related~~ training-related activities if the court finds that participation in such activities would assist in providing support for a child, or in addressing the causes of the default. The court may also order the parent to participate in substance abuse or other counseling if the court finds that such counseling may assist the parent to achieve stable employment. Activities ordered under this section shall ~~not be inconsistent~~ consistent with, and may be more rigorous than, any requirements of a state or federal program in which the parent is participating. For the purpose of this subsection, “employment, educational, or ~~training-related~~ training-related activities” shall mean:

- (1) unsubsidized employment;
- (2) subsidized private sector employment;
- (3) subsidized public sector employment;
- (4) work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;
- (5) on-the-job training;
- (6) job search and job readiness assistance;
- (7) community service programs;
- (8) vocational educational training (not to exceed 12 months with respect to any individual);
- (9) job skills training directly related to employment;
- (10) education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency;
- (11) satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate;
- (12) the provision of child care services to an individual who is participating in a community service program; and
- (13) an employment services program, which may provide referrals for employment, training, counseling, or other services. Any report provided from such a program shall be presumed to be admissible without the appearance of a

witness from the program in accordance with the provisions in 4 V.S.A. § 466(f).

* * *

Sec. 5. 15 V.S.A. § 660 is amended to read:

§ 660. MODIFICATION

(a)(1) On motion of either parent ~~or, the office of child support,~~ any other person to whom support has previously been granted, or any person previously charged with support, and upon a showing of a real, substantial and unanticipated change of circumstances, the court may annul, vary, or modify a child support order, whether or not the order is based upon a stipulation or agreement. If the child support order has not been modified by the court for at least three years, the court may waive the requirement of a showing of a real, substantial, and unanticipated change of circumstances.

(2) The office of child support may independently file a motion to modify child support or change payee if providing services under Title IV-D of the Social Security Act, if a party is or will be incarcerated for more than 90 days, if the family has reunited or is living together, if the child is no longer living with the payee, or if a party receives means-tested benefits.

(b) A child support order, including an order in effect prior to adoption of the support guideline, which varies more than ten percent from the amounts required to be paid under the support guideline, shall be considered a real, substantial, and unanticipated change of circumstances.

(c) ~~Receipt of workers' compensation, unemployment compensation or disability benefits~~ The following shall be considered a real, substantial, and unanticipated change of circumstances:

(1) Receipt of workers' compensation, disability benefits, or means-tested public assistance benefits.

(2) Unemployment compensation, unless the period of unemployment was considered when the child support order was established.

(3) Incarceration for more than 90 days, unless incarceration is for failure to pay child support.

(d) A motion to modify a support order under subsection (b) or (c) of this section shall be accompanied by an affidavit setting forth calculations demonstrating entitlement to modification and shall be served on other parties and filed with the court. Upon proof of service, and if the calculations demonstrate cause for modification, the ~~clerk of the court~~ magistrate shall enter an order modifying the support award in accordance with the calculations

provided, unless within 15 days of service of, or receipt of, the request for modification, either party requests a hearing. The court shall conduct a hearing within 20 days of the request. No order shall be modified without a hearing if one is requested.

(e) An order may be modified only as to future support installments and installments which accrued subsequent to the date of notice of the motion to the other party or parties. The date the motion for modification is filed shall be deemed to be the date of notice to the opposing party or parties.

(f) Upon motion of the court or upon motion of the office of child support, the court may deem arrears judicially unenforceable in cases where there is no longer a duty of support, provided the court finds all of the following:

(1) The obligor is presently unable to pay through no fault of his or her own.

(2) The obligor currently has no known income or has only nominal assets.

(3) There is no reasonable prospect that the obligor will be able to pay in the foreseeable future.

(g) Upon motion of an obligee or the office of child support, the court may set aside a judgment that arrears are judicially unenforceable based on newly discovered evidence or a showing of a real, substantial, and unanticipated change in circumstances, provided the court finds any of the following:

(1) The obligor is presently able to pay.

(2) The obligor has income or has only nominal assets.

(3) There is a reasonable prospect that the obligor will be able to pay in the foreseeable future.

Sec. 6. 15 V.S.A. § 662 is amended to read:

§ 662. INCOME STATEMENTS

(a) A party to a proceeding under this subchapter shall file an affidavit of income and assets which shall be in a form prescribed by the court administrator. A party shall provide the affidavit of income and assets to the court and the opposing party on or before the date of the case management conference scheduled or, if no conference is scheduled, at least five business days before the date of the first scheduled hearing before the magistrate. Upon request of either party, or the court, the other party shall furnish information

documenting the affidavit. The court may require a party who fails to comply with this section to pay an economic penalty to the other party.

(b) If a party fails to provide information as required under subsection (a) of this section, the court shall use the available evidence to estimate the noncomplying parent's income. Failure to provide the information required under subsection (a) of this section ~~shall~~ may create a presumption that the noncomplying parent's gross income is ~~the greater of:~~

~~(1) 150 percent of the most recently available annual average covered wage for all employment as calculated by the department of labor; or~~

~~(2) the gross income indicated by the evidence.~~

(c)(1) Upon a motion filed by either party or the office of child support, the court may relieve a party from a final judgment or child support order upon a showing that the income used in a default child support order was inaccurate by at least 10 percent. A showing that the court used incorrect financial information shall be considered a mistake for the purposes of Rule 60 of the Vermont Rules of Civil Procedure.

(2) The motion in subdivision (1) of this subsection shall be filed within one year of the date the contested order was issued.

Sec. 7. 15 V.S.A. § 668 is amended to read:

§ 668. MODIFICATION OF ORDER

(a) On motion of either parent or any other person to whom custody or parental rights and responsibilities have previously been granted, and upon a showing of real, substantial and unanticipated change of circumstances, the court may annul, vary or modify an order made under this subchapter if it is in the best interests of the child, whether or not the order is based upon a stipulation or agreement.

(b) Whenever a judgment for physical responsibility is modified, the court shall order a child support modification hearing to be set and notice to be given to the parties. Unless good cause is shown to the contrary, the court shall simultaneously issue a temporary order pending the modification hearing, if adjustments to those portions of any existing child support order or wage withholding order that pertain to any child affected by the modification are necessary to assure that support and wages are paid in amounts proportional to the modified allocation of responsibility between the parties.

Sec. 8. 28 V.S.A. § 2a(a) is amended to read:

(a) State policy. It is the policy of this state that principles of restorative justice be included in shaping how the criminal justice system responds to

persons charged with or convicted of criminal offenses, and how the state responds to persons who are in contempt of child support orders. The policy goal is a community response to a person's wrongdoing at its earliest onset, and a type and intensity of sanction tailored to each instance of wrongdoing. Policy objectives are to:

(1) Resolve conflicts and disputes by means of a nonadversarial community process.

(2) Repair damage caused by criminal acts to communities in which they occur, and to address wrongs inflicted on individual victims.

(3) Reduce the risk of an offender committing a more serious crime in the future, that would require a more intensive and more costly sanction, such as incarceration.

Sec. 9. 28 V.S.A. § 3 is amended to read:

§ 3. GENERAL DEFINITIONS

Whenever used in this title:

* * *

(8) "Offender" means any person convicted of a crime or offense under the laws of this state, and, for purposes of work crew, a person found in civil contempt under 15 V.S.A. § 603.

* * *

Sec. 10. 28 V.S.A. § 352 is amended to read:

§ 352. SUPERVISED COMMUNITY SENTENCE

(a) At the request of the court, the commissioner of corrections shall prepare a preliminary assessment to determine whether an offender should be considered for a supervised community sentence.

(b) Upon adjudication of guilt, ~~or~~ a finding of violation of probation, or a finding of civil contempt, and only after the filing of a recommendation for supervised community sentence by the commissioner of corrections, the court may impose a sentence of imprisonment and order that all or part of the term of imprisonment be served in the community subject to the provisions of this chapter. Such a sentence shall not limit the court's authority to place a person on probation and to establish conditions of probation.

* * *

Sec. 11. 28 V.S.A. § 910 is amended to read:

§ 910. RESTORATIVE JUSTICE PROGRAM ~~FOR PROBATIONERS~~

This chapter establishes a program of restorative justice for use with offenders required to participate in such a program as a condition of a sentence of probation or as ordered for civil contempt of a child support order under 15 V.S.A. § 603. The program shall be carried out by community reparative boards under the supervision of the commissioner, as provided by this chapter.

Sec. 12. 28 V.S.A. § 910a is amended to read:

§ 910a. REPARATIVE BOARDS; FUNCTIONS

* * *

(d) Each board shall conduct its meetings in a manner that promotes safe interactions among ~~a probationer~~ an offender, victim or victims, and community members, and shall:

(1) In collaboration with the department, municipalities, the courts, and other entities of the criminal justice system, implement the restorative justice program of seeking to obtain ~~probationer~~ offender accountability, repair harm and compensate a victim or victims and the community, increase a ~~probationer's~~ an offender's awareness of the effect of his or her behavior on a victim or victims and the community, and identify ways to help ~~a probationer~~ an offender comply with the law.

(2) Educate the public about, and promote community support for, the restorative justice program.

(e) Each board shall have access to the central file of any ~~probationer~~ offender required to participate with that board in the restorative justice program.

* * *

Sec. 13. EFFECTIVE DATE

This act shall take effect on July 1, 2012

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment offered by the committee on Judiciary agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 222

Rep. Fisher of Lincoln, for the committee on Health Care, to which had been referred Senate bill, entitled

An act relating to cost-sharing for employer-sponsored insurance assistance plans

Recommended that the House propose to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 1974(c)(3) is amended to read:

(3) The premium assistance program under this subsection shall provide a subsidy of premiums or cost-sharing amounts based on the household income of the eligible individual, with greater amounts of financial assistance provided to eligible individuals with lower household income and lesser amounts of assistance provided to eligible individuals with higher household income. Until an approved employer-sponsored plan is required to meet the standard in subdivision (4)(B)(ii) of this subsection, the subsidy shall include premium assistance and assistance to cover cost-sharing amounts for chronic care health services covered by the Vermont health access plan that are related to evidence-based guidelines for ongoing prevention and clinical management of the chronic condition specified in the ~~blueprint~~ Blueprint for health ~~Health~~ in 18 V.S.A. § 702. The subsidy shall also include assistance to cover cost-sharing amounts for supplemental prescription drug coverage equivalent to the benefits offered by the Vermont health access plan. Notwithstanding any other provision of law, when an individual is enrolled in Catamount Health solely under the high deductible standard outlined in 8 V.S.A. § 4080f(a)(9), the individual shall not be eligible for premium assistance for the 12-month period following the date of enrollment in Catamount Health.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

Rep. Heath of Westford, for the committee on Appropriations, recommended that the bill ought to pass when amended as recommended by the committee on Health Care.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on Health Care and Appropriations agreed to and third reading ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 236

Rep. Till of Jericho, for the committee on Health Care, to which had been referred Senate bill, entitled

An act relating to health care practitioner signature authority

Reported in favor of its passage in concurrence with proposal of amendment as follows:

In Sec. 1, 26 V.S.A. § 1616, following the words “nurse practitioner”, by inserting the words “or a nurse midwife”

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment offered by the committee on Health Care agreed to and third reading ordered.

Bill Read Second Time; Consideration Interrupted by Recess

S. 245

Rep. Christie of Hartford, for the committee on Education, to which had been referred Senate bill, entitled

An act relating to requiring cardiovascular care instruction in public and independent schools

Reported that the House propose to the Senate that the bill be amended as follows:

First: By striking out Sec. 2 in its entirety and by renumbering “Sec. 3” to be “Sec. 2”

Second: By striking out Sec. 4 in its entirety and inserting in lieu thereof a new section to be Sec. 3 to read:

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Education?

Recess

At twelve o'clock and thirty-five minutes in the afternoon, the Speaker declared a recess until two o'clock and thirty minutes in the afternoon.

At two o'clock and thirty minutes in the afternoon, the Speaker called the House to order.

**Consideration Resumed; Proposal of Amendment Agreed to
and Third Reading Ordered**

S. 245

Consideration resumed on Senate bill, entitled

An act relating to requiring cardiovascular care instruction in public and independent schools;

Thereupon, the recurring question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Education? was agreed to and third reading ordered.

Senate Proposal of Amendment Concurred in

H. 752

The Senate proposed to the House to amend House bill, entitled

An act relating to permitting stormwater discharges in impaired watersheds

In Sec. 2, 27 V.S.A. § 613, by striking out “January 15, 2016” where it appears in subdivision (b)(2) and inserting in lieu thereof June 30, 2016

Which proposal of amendment was considered and concurred in.

Senate Proposal of Amendment Concurred in

H. 765

The Senate proposed to the House to amend House bill, entitled

An act relating to the mental health needs of the corrections population

By striking all after the enacting clause and inserting in lieu thereof the following:

**Sec. 1. INDIVIDUALS WITH A SERIOUS FUNCTIONAL IMPAIRMENT
INCARCERATED IN A CORRECTIONAL FACILITY**

(a) For the purpose of identifying and assessing the needs of individuals with a serious functional impairment as defined in 28 V.S.A. § 906(1) who are incarcerated in a correctional facility, the secretary of human services shall establish on or before July 1, 2012 a work group, including representatives appointed by the secretary of human services from the departments of corrections, of mental health, and of disabilities, aging, and independent living and including stakeholders. The work group shall:

(1) determine whether individuals with serious functional impairments are receiving appropriate programs and services while incarcerated in a correctional facility;

(2) consult with the members of the criminal justice community on ways to prevent initial incarceration and on ways to limit the length of incarceration for an individual with a serious functional impairment, as appropriate;

(3) work toward the successful reintegration into the community of an individual with serious functional impairment who has been incarcerated in a correctional facility;

(4) work toward reducing the recidivism rate among individuals with a serious functional impairment; and

(5) make long-term, systemic policy recommendations to the secretary of human services to create or improve mechanisms, programs, and services that benefit individuals with a serious functional impairment incarcerated in a correctional facility.

(b) On or before January 15, 2013, the secretary of human services shall issue a report to the general assembly recommending how to better address the needs of individuals with a serious functional impairment who are incarcerated in a correctional facility, based on the findings of the work group in the course of its duties as described in subsection (a) of this section. Prior to finalizing the report, the secretary shall obtain public input regarding the report and shall release a draft report to the public for public comment on or before December 15, 2012. At minimum, the report shall address the following:

(1) the prevalence of serious functional impairment among those members of the corrections population incarcerated in a correctional facility at the time the report is issued;

(2) the rate of recidivism among individuals with a serious functional impairment;

(3) the prevalence of psychotropic medication utilization by individuals in the mental health caseloads, including an analysis of the number of individuals with a serious functional impairment who possess a prescription for a psychotropic medication and whether that prescription was prescribed before or after the individual was incarcerated.

(4) the number of individuals incarcerated in a correctional facility with a serious functional impairment who are in need of mental health services that are not currently available to them; and

(5) opportunities to combine the department of mental health's expertise with that of the department of corrections to improve the mental health

services for individuals with a serious functional impairment who are incarcerated in a correctional facility.

Sec. 2. INCARCERATED INDIVIDUALS AND MENTAL HEALTH

As a complement to the assessment conducted pursuant to Sec. 1 of this act, the commissioner of mental health shall ensure that information regarding incarcerated individuals with a mental illness or disorder as defined in 28 V.S.A. § 906(3) is collected and recorded separately, in addition to the other requirements of this act. The information collected shall include recidivism rates among this population. On or before January 15, 2013, the commissioner shall report this information and make recommendations to the house committee on corrections and institutions, the house committee on human services, the senate committee on health and welfare, and the senate committee on judiciary.

Sec. 3. TRAINING

On or before October 15, 2012, the departments of mental health, of disabilities, aging, and independent living, and of corrections, with input and participation from peer and advocacy organizations, shall review the department of corrections' training program for correctional officers as it relates to the Americans with Disabilities Act and to working with and identifying individuals with a serious functional impairment or a mental illness or disorder. The review shall determine if the training is gender-responsive and trauma-informed. No later than January 15, 2013, the commissioners of mental health and of corrections shall submit a report to the general assembly identifying the strengths, weaknesses, and opportunities for improvement in this training.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

Which proposal of amendment was considered and concurred in.

Action on Bill Postponed

H. 459

House bill, entitled

An act relating to approval of amendments to the charter of the town of Brattleboro

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Martin of Wolcott**, action on the bill was postponed until the next legislative day.

**Senate Proposal of Amendment Concurred in
with a Further Amendment Thereto**

H. 403

The Senate proposed to the House to amend House bill, entitled

An act relating to foreclosure of mortgages

By striking Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 and Secs. 4, 5, and 6 to read as follows:

Sec. 3. 12 V.S.A. § 506 is amended to read:

§ 506. JUDGMENTS

Actions on judgments and actions for the renewal or revival of judgments shall be brought by filing a new and independent action on the judgment and recording a copy of the complaint in the land records where the property lies within eight years after the rendition of the judgment, and not after.

Sec. 4. 12 V.S.A. § 2903(b) is amended to read:

(b) A judgment which is renewed or revived pursuant to section 506 of this title shall constitute a lien on real property for eight years from the issuance of the renewed or revived judgment if recorded in accordance with this chapter and shall relate back to the date on which the original lien was first recorded if a copy of the complaint to renew the judgment was recorded in the land records where the property lies within eight years after the rendition of the judgment.

Sec. 5. 27 V.S.A. § 612(b) is amended to read:

(b) A purchaser shall have the right to terminate a binding contract for the sale of real estate if, prior to closing, the purchaser determines and gives written notice to the seller that land development has occurred on the real estate without a required municipal land use permit or in violation of an existing municipal land use permit. Following the receipt of written notice, the seller shall have 30 days, unless the parties agree to a shorter or longer period, either to obtain the required municipal land use permits or to comply with existing municipal land use permits. If the seller does not obtain the required municipal land use permits or comply with existing municipal land use permits, the purchaser may terminate the contract if, as an owner or occupant of the real estate, the purchaser may be subject to an enforcement action under 24 V.S.A. § 4496 24 V.S.A. § 4454.

Sec. 6. EFFECTIVE DATES; APPLICABILITY

(a) Secs. 1 and 2 of this act shall take effect on July 1, 2012 and shall apply to any mortgage foreclosure proceeding instituted after that date.

(b) This section and Secs. 3, 4, and 5 of this act shall take effect on passage.

Pending the question, Shall the House concur in the Senate proposal of amendment? **Rep. Koch of Barre Town**, moved that the House concur with the Senate proposal of amendment with the following amendments thereto:

First: By striking Sec. 3 in its entirety and inserting in lieu thereof the following:

Sec. 3. [DELETED]

Second: By striking Sec. 4 in its entirety and inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. 12 V.S.A. § 2903(b) is amended to read:

(b) A judgment which is renewed or revived pursuant to section 506 of this title shall constitute a lien on real property for eight years from the issuance of the renewed or revived judgment if recorded in accordance with this chapter. The renewed or revived judgment and shall relate back to the date on which the original lien was first recorded if a copy of the complaint to renew the judgment was recorded in the land records where the property lies within eight years after the rendition of the judgment, and the renewed or revived judgment is subsequently recorded in accordance with this chapter.

Which was agreed to.

Adjournment

At three o'clock and fifteen minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.