



# *Vermont . . .*

**Department of Banking, Insurance, Securities  
and Health Care Administration**

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## **BISHCA BULLETIN NO. 2**

### **LAWS ENACTED DURING THE 2010 SESSION OF THE VERMONT GENERAL ASSEMBLY**

This Bulletin summarizes the laws enacted during the 2010 Session of the General Assembly relating to entities and activities regulated by the Department of Banking, Insurance, Securities and Health Care Administration.

This Bulletin is intended to provide general information only, for the purpose of notifying interested parties of changes that may affect them. Anyone who may be affected by any of these laws is urged to obtain an unofficial version of the act at the Legislative Council website: [www.leg.state.vt.us](http://www.leg.state.vt.us), or to obtain an official version of the act from: Legislative Council, State House, Montpelier, VT 05602 (802) 828-2231. Any questions relating to the Department's implementation and administration of these laws should be directed to the relevant Division, or the General Counsel's Office (802-828-2380).

#### ***H.498, Maintenance of Private Roads***

This legislation was originally introduced to provide a law to allocate the cost of maintaining a private road in those instances where there is no other agreement to maintain the private road. Fannie Mae will not purchase mortgage loans on property located on a private road unless there is a private road maintenance agreement in place or the state has a statute that defines the property owners responsibility for the maintenance and repair of private roads when there is no other agreement or covenant in place.

The bill as passed by the legislature establishes a summer study committee to study the creation of statutory private road maintenance requirements when there is no formal agreement or covenant between the property owners. The study committee will include two members appointed by the Governor, the VT Bankers Association, the Vermont League of Cities and Towns, and BISHCA.

Effective date: July 1, 2010.

***H.527, Municipal Recovery of Costs of Fire Department Response***

H. 527 as introduced would have allowed for reimbursement of costs incurred by a municipality for emergency and non-emergency responses to a variety of events including hazardous materials incidents and motor vehicle accidents. The enacted legislation creates a Municipal Cost Recovery Study Committee to evaluate whether or not, or to what extent, to allow municipalities to recover costs of responses to emergencies and non-emergencies on class 1 and federal highways. The eight-member committee is comprised of: two members appointed by Vermont League of Cities and Towns; the Commissioner of BISHCA; the Commissioner of Public Safety; the Secretary of Transportation; two members appointed by the Vermont Coalition of Fire and Rescue Services; and one member of the Vermont Ambulance Association.

Effective date: July 1, 2010.

***H.542, Mobile Home Transfers and Rent-to-Own Transactions***

This legislation clarifies the process to transfer a mobile home and also clarifies the difference between a home that has been sold, versus a home that the consumer is renting to own.

The legislation provides that as part of the sale of a mobile home (that is sold separately from the real property) the town clerk must endorse the mobile home bill of sale to confirm that all property taxes due and owing on the mobile home have been paid. The seller of the mobile home must provide a copy of the bill of sale to the land owner of the property on which the mobile home is located (often the real estate owner will be the owner of a mobile home park). If the mobile home is going to be relocated, the buyer must provide a copy of the bill of sale to the owner of the real property on which the mobile home will be relocated (often the mobile home park owner where the mobile home is being relocated) and must file the bill of sale with the town clerk of the new town. The legislation also provides an updated form of the mobile home uniform bill of sale.

The legislation creates a distinction between the "sale" of a mobile home and a "rent-to-own" or "lease-purchase" arrangement for a mobile home. The legislation further clarifies that the laws covering residential rental agreements govern a "rent-to-own" situation, and the laws covering sales govern the sale of a mobile home.

The legislation also requires additional disclosures when the mobile home is sold "AS-IS" and clarifies that the UCC Article 2 warranties apply to the sale of a mobile home.

Effective date: September 1, 2010.

***H.590. Mandatory Mediation in Foreclosure***

This bill seeks to require mediation and compliance with the federal Home Affordability Modification Program ("HAMP") in all owner occupied one to four unit residential foreclosure actions where the underlying mortgage is subject to the HAMP guidelines. The mediator must be a Vermont licensed attorney that has taken a legal education course on foreclosure prevention and loss mitigation, which course must be approved by the Vermont Bar Association.

Whenever the borrower enters an appearance in a foreclosure action, or if the borrower requests mediation up to four months after the judgment is entered in the foreclosure case (this is typically while the period of redemption is running), the court shall refer the case to mediation.

The mortgagee must serve a notice on the borrower, with the summons and complaint, that informs the borrower of the right to mediation. The bill includes elements that must be in the notice, but leaves it to the Supreme Court to promulgate any required form of notice.

All parties must participate in the mediation, including: lender or lender's servicing agent, lender's attorney, and the borrower and the borrower's attorney, if any. The participants must have decision-making authority and access to the appropriate information to consider and calculate the available options. The borrower must provide the mediator information about the borrower's income. The participants are required to use the calculations, assumptions, and forms as established by the HAMP guidelines. In addition to HAMP the lender must consider other prevention tools including reinstatement, loan modification, foreclosure, and short sale. The lender is required to provide documentation of its consideration of all of the above HAMP and other foreclosure alternative tools.

The mediator must file a mediation report within seven days of completing the mediation. The report is sent to both parties and to the court.

The court reviews the mediator's report to decide if the lender complied with the all of the foreclosure alternative requirements and considerations set forth above. The court may make such determination on its own or may require a hearing. The court has broad authority to issue sanctions if it finds that the lender did not comply with its obligations in the mediation.

The bill requires that the lender pay the costs of the mediation and the lender cannot transfer the costs to the borrower. The borrower is responsible for the borrower's own costs, including the cost of the borrower's attorney, if any, and travel costs.

The bill only applies to foreclosure actions involving loans that are subject to HAMP. The act takes effect on July 1, 2010 and sunsets on the expiration date of the HAMP program.

Effective date: July 1, 2010 for the mediation provisions.

***H.622, Solicitation by prescreened trigger lead information***

When a consumer applies for a mortgage loan with a lender, it may "trigger" information about the loan application being sent to another lender. The other lender, typically a lender the consumer has not contacted about the current loan, may call the consumer offering the consumer a mortgage loan. Problems have arisen when the second lender does not make it clear that it is not the same entity as the original lender. This bill provides limitations, disclosure requirements, and remedies for trigger lead solicitation of consumers.

Effective date: July 1, 2010.

***H.647, Workers' compensation misclassification***

With respect to the provisions relating to BISHCA only:

The legislation provides that an administrative penalty issued by the Commissioner of BISHCA with respect to an employer that misrepresented information relating to workers' compensation insurance will continue in effect as to a successor employer.

The law already authorizes BISHCA to bring an administrative proceeding for making a false statement which results in a lower workers' comp premium. In addition to the maximum BISHCA penalty of \$20,000 for misclassification of workers, the legislation authorizes the Commissioner, in consultation with the Department of Buildings and General Services and the Agency of Transportation as appropriate, to prohibit the employer from contracting with the State of Vermont for up to three years.

The legislation requires BISHCA and the Vermont Department of Labor to report to the legislature on January 15, 2011 and January 15, 2012 regarding their workers' compensation misclassification enforcement efforts.

Effective date: July 1, 2010 as to the misclassification provisions.

***H.658, An Act Relating to Certificate of Need and Home Health Agencies and Addressing Patient Transportation Services in Certificate of Need Applications***

The legislation imposes a "temporary suspension" of the granting of any certificates of need for new home health agencies, for the legislative purpose of measuring the impact of the addition of a for-profit statewide home health agency on the home health system, and to allow the state to consider the need for changes

to certificate of need laws. This moratorium on home health agencies (including hospice) will continue until June 20, 2013 or “until the general assembly lifts the moratorium after considering and acting” on the workgroup’s recommendations (see below). A home health agency certificate of need application can be considered, despite the moratorium, if the Commissioners of BISHCA and the Department of Aging and Independent Living each certify, “that a serious and substantial lack of access to home health services exists in a particular county.” Before such a certification can be made, the existing home health agencies must be provided notice and “a reasonable opportunity to either challenge that certification or remediate the problem.” The moratorium does not apply to existing home health agency geographic service area modifications, existing continuing care retirement communities (i.e. Wake Robin), or to projects that have letters of intent filed before the effective date of the act.

The bill requires BISHCA and DAIL to convene a work group consisting of representatives of: 1) at least one non-profit Vermont home health agency; 2) one for profit Vermont home health agency; and 3) “other interested parties.”

The work group is required to “develop objective criteria for certificate of need (CON) decisions regarding home health services, including hospice.” The work group is required to meet at least four times per year and, at a minimum, shall: establish a definition of need; develop a method for measuring the impact of any proposed project on existing service providers and the populations they serve; identify standards to measure unnecessary duplication of services; and determine whether additional standards to govern the approval of new home health services (including hospice) should be adopted, through the HRAP or otherwise.

The legislation also requires that in order to grant a certificate of need the Commissioner of BISHCA must find that “the applicant has adequately considered the availability of affordable, accessible, patient transportation services to the facility.”

Effective date: Upon passage – April 21, 2010.

***H.759, Fee Bill – Mortgage Loan Originator fees***

This portion of the bill imposes a \$50 fee when a mortgage loan originator changes its employer and sponsor after the initial employer and sponsor.

Effective date: Upon passage – May 29, 2010.

***H.759, Fee Bill – Money Servicers fees***

This portion of the bill imposes an initial license fee of \$25 per authorized delegate location. Imposes an annual renewal fee of \$25 per authorized delegate location not to exceed \$3,500. Imposes an annual assessment of \$0.0001 per dollar volume of Vermont activity, not to exceed \$15,000. Requires licensees to

keep BISHCA informed of all locations that provide money services to Vermonters. Clarifies that an authorized delegate of a licensee may not have sub-authorized delegates. Authorized delegates must enter into contracts directly with the licensee.

Effective date: Upon passage – May 29, 2010.

***H.759, Fee Bill – Commercial Lenders***

This portion of the bill creates a simplified licensing process for licensed lenders that only make commercial loans in this state. The simplified process focuses on the identity of the lender and the lender's location, identifying the control persons of the lender, criminal history, actions by other regulatory agencies, and the experience, character and general fitness of the lender.

Effective date: Upon passage – May 29, 2010.

***H.759, Fee Bill – Captive insurance fees***

This portion of the bill will: 1) eliminate the \$200 application fee and instead charge a combined license/application fee, and 2) increase the annual license fee from \$300 to \$500. Simultaneously, the Captive Division will cease collecting a \$300 annual fee for reinsurers not otherwise licensed by the traditional Insurance Division. The result will be a simplified fee structure of \$500 per captive per year.

Effective date: Upon passage – May 29, 2010.

***S.58, Electronic Payment of Wages***

This legislation will permit employers to pay employee wages by making an electronic payment to a payroll card account set up for the employee. This is a voluntary option and would only be used if the employee selects payment of wages to a payroll card account. The employee would access his or her wages through a payroll card that is similar to a debit card. The legislation also includes a number of employee protections regarding the payroll card.

The Department of Labor is the primary regulator under this legislation; however, the legislation authorizes BISHCA to adopt administrative rules regarding the payment of wages by payroll cards. The legislation also requires that BISHCA report to the legislature any problems it identifies with the use of payroll cards.

Effective date: Upon passage – May 21, 2010.

***S.88, Health Care Financing and Universal Access***

Health Care System Design and Implementation Plan

By Feb. 1, 2011, three design options (with implementation plans) will be developed by the Health Care Reform Commission, including a single payer

option and a public option. BISHCA and the Agency of Human Services are required to ensure that the Commission and its consultants have the information necessary to create the design options.

Effective date: Upon passage – May 27, 2010.

#### Federal Health Care Reform

BISHCA is granted the authority to enforce the health insurance requirements of the federal health care reform law. BISHCA is also authorized, with the approval of the Health Care Reform Commission, to apply for federal funding for high risk Vermont residents.

Effective date: Upon passage – May 27, 2010.

#### Blueprint for Health

No later than January 1, 2011, health insurers shall participate in the Blueprint as a condition of doing business in Vermont. Health insurance plans must be consistent with the Blueprint, as determined by BISHCA.

Blueprint payment reform methodologies shall include per-person per-month payments to medical home practices by each health insurer and Medicaid for their attributed patients and for contributions to the shared costs of operating the community health teams. Health insurers shall modify payment methodologies and amounts to health care professionals and providers as required for the establishment of the chronic care management and medical home programs.

By July 1, 2011, hospitals shall participate in the Blueprint by creating or maintaining connectivity to the state's health information exchange network. The Director of Health Care Reform shall establish a process for annually certifying that a hospital meets the participation requirements. This process must be complete prior to each hospital's annual budget review.

Effective date: July 1, 2010.

#### Payment reform pilots

The Department of Vermont Health Access shall be responsible for developing pilot projects to test payment reform methodologies.

Health insurers shall participate in the development of the payment reform strategic plan, and after approval by the general assembly, in the implementation of the pilot (including providing incentives and fees).

To the extent required to avoid federal anti-trust violations, BISHCA shall facilitate and supervise the participation of health care professionals, health care facilities and insurers in the planning and implementation of the payment reform projects.

Effective date: July 1, 2010.

Hospital budgets and the Certificate of Need program

BISHCA Commissioner shall target hospital budgets consistent with the following goals: (1) FYs 2011 and 2012, system-wide increase lower than the prior year's increase; (2) FY 2011, total system-wide net patient revenue increase shall not exceed 4.5%; (3) FY 2012, total system-wide net patient revenue increase shall not exceed 4.0%; (4) the Commissioner may restrict or disallow specific expenditures (such as new programs); (5) the Commissioner may exempt revenue and expenses associated with health care reform, electronic medical records, physician practices, provider tax; (6) the Commissioner may waive the budget process requirements for hospitals for more than 2 years (except FAHC); and (7) the Commissioner may approve or amend a hospital budget in a manner inconsistent with these goals if hospital's financial health or solvency would otherwise be severely compromised.

In connection with a CON proceeding, or in connection with a hospital budget review proceeding, BISHCA may obtain information from affiliated corporations or other persons in control of or controlled by the applicant.

The Commissioner of BISHCA is authorized to take immediate action in the event of an immediate threat to the public or to the financial condition of the hospital.

BISHCA shall require each hospital to provide information on administrative costs, as defined by the Commissioner, including specific information on the amounts spent on marketing and advertising costs.

In connection with the Certificate of Need program, the statute authorizing annual review cycles (batching) is repealed, and replaced with a requirement that BISHCA consider disapproving a CON if a project was not identified prospectively as needed at least two years prior in the capital budget plans.

Effective date: Upon passage -- May 27, 2010.

Health insurance rate regulation

BISHCA is directed to use the existing rate review and approval authority to control the cost of health insurance. BISHCA may impose limits on: administrative costs, contributions to reserves, producer commissions, medical trends, pharmacy trends and other.

The Commissioner of BISHCA may require small group and non-group carriers to identify the percentage of a requested premium increase which is attributed to: hospital inpatient/outpatient costs, pharmacy costs, primary care, other medical costs, administrative costs and projected reserves/profit. This information shall be made available to the public.

The BISHCA Commissioner shall adopt rules requiring each health insurer licensed to do business in Vermont to report at least annually information specific to its Vermont contracts – enrollment data, loss ratios, and such other information as the commissioner deems appropriate.

Managed care organizations providing or administering mental health benefits on behalf of an insurance company shall comply with the medical loss ratio requirements of the new federal health care reform law.

Effective date: Generally, January 1, 2011, but no later than January 1, 2012.

Health Insurance Coverage Provisions

Health insurance coverage is required for certain dental procedures for children 12 years old and under or disabled individuals who are unable to undergo dental procedures without general anesthesia

Health insurance coverage is required for at least one 3-month supply per year of tobacco cessation medication.

Effective date: Generally, October 1, 2010, but no later than October 1, 2011.

***S.138, Credit Cards***

This legislation establishes limitations on the operation of electronic payments systems used in connection with credit cards, charge cards, debit cards, or stored-value cards.

With respect to transactions involving Vermont merchants, an electronic payment system may not impose a penalty: (a) if the merchant offers a discount for cash purchases; (b) if the merchant imposes a minimum amount on purchases by credit card; and (c) if the merchant accepts the terms of the electronic payment system for some but not all of the merchant's retail locations.

Violations of the legislation are subject to restitutions, civil penalties, and the remedies provided by the Consumer Fraud Act.

The legislation also prohibits fraudulent use of scanning devices to access personal information without the consent of the consumer. Violations are subject to criminal penalties, and forfeiture of the scanning device or other hardware or software used in the commission of the violation.

On or before December 15, 2011 BISHCA shall examine studies relating to credit card interchange fees, and report to the legislature with its findings and recommendations.

Effective date: January 1, 2011, except that the fraudulent scanning device provision takes effect on passage – May 21, 2010.

***S.262, Insurance Coverage for Autism***

This legislation establishes a mandate of health insurance coverage for the diagnosis and treatment of autism spectrum disorders for children beginning at 18 months of age and continuing until the child reaches the age of six or enters first grade (whichever occurs first).

The mandate is broad. First, health insurance plans must provide coverage for the diagnosis and treatment of autism spectrum disorders for children beginning at 18 months of age and continuing until the child reaches the age of six or enters first grade (whichever occurs first). Second, autism spectrum disorders are defined as “one or more pervasive developmental disorders” (including autistic disorder and Asperger’s disorder) as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders. Third, treatment, as defined by the bill, includes: applied behavior analysis supervised by a nationally board-certified behavior analyst for children beginning at 18 months of age and continuing until the child reaches age six or enters first grade; habilitative or rehabilitative care; pharmacy care; psychiatric care; psychological care; and therapeutic care. Fourth, health insurance plans cannot limit, in any way, the number of visits with an autism services provider (defined as any licensed or certified person providing treatment of autism spectrum disorders); or impose greater coinsurance, co-payment, deductible, or other cost-sharing requirements for coverage of autism spectrum disorders than apply to the diagnosis and treatment of any other physical or mental health condition under the plan. Finally, it is important to note that in the bill, a “health insurance plan” includes Medicaid, Vermont Health Access Plan and any other Vermont public health care assistance program.

The legislation also requires the Agency of Administration, the Agency of Human Services and the Department of Education to conduct a number of evaluation and assessment tasks.

Effective date: Generally July 1, 2011, but no later than July 1, 2012.

***S.278, BISHCA Housekeeping Bill***

**Banking:**

Independent trust company minimum capital. Sec. 1 of the bill amends the minimum capital requirement for independent trust companies regulated by the Department. Last session’s Housekeeping legislation revised the minimum capital requirement for independent trust companies, but did so in a manner which froze the minimum capital amount at the first year’s projected assets under management for the company. This amendment will correct the requirement by setting the minimum based on the company’s current assets under management.

Mortgage broker and sales finance license applications. This amendment clarifies that a licensed lender can secure a sales finance or mortgage broker license in one application, but must pay the applicable fee to secure each license. Application fees

are being paid in accordance with the proposed clarification, so there would be no change in fees assessed or collected.

Money transmission service licensees. This provision clarifies that a money transmission service licensee must secure a license for its “authorized delegates” only if the delegate is located in this state. This is the construction that both the Department and the licensees have been using in administering the licensing program, so the amendment will not change current practice.

Debt adjusters. Sec. 2 of the bill clarifies the definition of “debt adjuster”, so that the activities which define the licensee accurately describe the business of a debt adjuster. Sec. 3 of the bill will also re-codify the debt adjuster statute from Part 3 of title 8, the insurance statutes, to Part 2 of Title 8, the statutes relating to financial institutions and entities other than banks and credit unions.

Vermont agent for mortgage holders or servicers. Sec. 4 of the bill will require certain lenders to designate a Vermont agent to handle transactions relating to the mortgage. When a home is purchased in Vermont with a mortgage from a Vermont financial institution, the mortgage is typically sold to another financial institution in the secondary market. The original mortgage requires the purchaser to carry home insurance, to protect both the purchaser and the financial institution’s collateral. When a claim settlement is made under the insurance policy, the payment must be approved by the financial institution, but approval is difficult when the current mortgage holder is an out of state company. This section of the bill will require out of state financial institutions holding a Vermont mortgage to designate a Vermont agent for insurance claims settlement purposes. An agent need not be designated if: (1) the financial institution is located in this state; (2) the loan is made to a family member; (3) the loan was made by the owner who occupied the home; and (4) the loan is made by a public agency.

### **Insurance:**

Property and casualty actuarial opinion model act. This provision adopts in Vermont law the NAIC amendments to the Property and Casualty actuarial opinion model act.

Group life insurance portability groups. Sec. 5, Sec. 6, and Sec. 7 address what happens when someone enrolled in a group life insurance policy is no longer an employee or member of the group. Generally, if a group insured’s employment is terminated, he or she loses the ability to purchase group life insurance through the employer or other group. This part of the legislation will expressly allow life insurers to establish a “portability group”, so that a terminated employee can continue to maintain his or her life insurance policy at lower group insurance rates. These amendments will also permit group life insurance to be offered even if less than 75% of the group decides not to enroll in the policy offered by the group.

Life and Health Guaranty Fund. These provisions adopt revisions to the Life and Health Guaranty Fund statute. These revisions are consistent with changes in the NAIC model. With the adoption of these revisions to the model act Vermont will have an up-to-date statute to use when a life or health insurance company becomes

insolvent, and policyholders need to be paid for claims which had been covered by policies issued by the insolvent company.

Transfer and Assumption of Insurance Contracts. These provisions amend the regulatory provisions governing the approval process that occurs when an insurance company proposes to transfer a “book” of business to another insurance company, and the assuming company thereby assumes the risk covered by the transferred policies. Under current Vermont law, the Commissioner’s approval of the transfer, and of the forms sent to policyholders, is needed even if the policyholders reside in another state, and even if the regulator in another state has similar approval authority. This situation can lead to confusing conflicts between the decisions of different states, and the company may be unclear as to which regulator’s decision to follow. The amendment will clarify that if another state regulator intends to approve the transaction and notice forms, the Vermont Commissioner will defer to the other state regulator decisions.

Electronic producer licensing application. These provisions will improve the efficiency with which the Department can process producer license applications and renewals. The Department has the capability to process insurance producer applications electronically, but not all producers avail themselves of the electronic process. These sections will make use of the electronic process mandatory, in the absence of a good reason why the producer cannot use the electronic process. These provisions will also require fingerprinting for insurance producers, for the purpose of coming into compliance with NAIC producer licensing uniformity standards, and to provide a greater measure of consumer protection for Vermont policyholders.

Surplus lines producers. These provisions repeal a current requirement of Vermont law that a surplus lines producer be licensed in Vermont in the underlying line of insurance for at least one year before being eligible for a surplus lines license in that line. The change is being made for the purpose of coming into compliance with federal law (the Graham Leach Bliley Act), which requires states to be reciprocal in issuing producer licenses for insurance producers who reside and are licensed in another state.

Multi-peril crop adjusters. These provisions will create a special Vermont producer licensing requirement for multi-peril crop adjusters who have been certified by the federal Risk Management Agency. Federal certification is needed to ensure that these adjusters have the specialized skills needed in this unique market. If a special state license had not been not authorized by Vermont law, the federal Risk Management Agency would preempt Vermont’s authority to issue producer licenses to crop adjusters.

Insurance producers; exemption from examination. This provision will remove from the discretion of the Commissioner his or her authority to exempt from examination “chartered life, and property and casualty underwriters”. This revision is being made in order to make Vermont law consistent with federal law and NAIC model laws relating to reciprocity and insurance producer licenses.

Continuing care retirement communities. This provision relates to financial reporting required of continuing care retirement communities. Continuing care retirement communities, such as Wake Robin, are regulated by BISHCA in terms of their financial affairs and solvency because the organization receives funds for consumers in exchange for a long term commitment to the consumer. This amendment will revise section 8018(e) of the statute so that Wake Robin can account for their Resident Assistant Fund by filing a schedule of supplementary information in the provider's audited financial statement, as an alternative to the filing of a complete audited financial statement of the Fund.

Risk based capital model act. These provisions make revisions to Vermont's Risk Based Capital model act. This is an NAIC model act establishing a mechanism for identifying and acting upon life and health insurance companies in financial trouble. The amendment to the model act will add a trend test to the "company action level event" threshold for health organizations, in order to provide an earlier warning for companies in financial distress. The amendment will also include health maintenance organizations and hospital and medical service corporations within the scope of the financial reporting and corrective action requirements of the law.

### **Captive Insurance:**

Reciprocal captive insurers. These provisions will clarify the manner in which a "power of attorney" must be executed in order to form a reciprocal insurer in Vermont. These provisions also expands the types of business entities which may join together to maintain coverage through the reciprocal insurer, and clarify the manner in which proxies are executed in the case of capital insurance companies formed as a reciprocal, a limited liability company, and a mutual insurance company.

Minimum capital and surplus requirements for association captives. This provision will reduce the minimum capital and surplus requirement for association captives from \$750,000 to \$500,000.

Mergers and consolidations with off-shore captives. These provisions will streamline the corporate reorganization process when an out of state captive wishes to become a Vermont domestic captive.

Annual statement of a pure captive, and an industrial insured captive. This provision will permit a pure captive insurance company or an industrial insured captive insurance company to file its annual financial statement with the Department two weeks after it would otherwise be due. This will help the captive from a logistical perspective in filing reports with different regulatory agencies without affecting the Department's regulatory capacity.

Formation of sponsored captive insurance companies. This provision will permit a sponsored captive insurance company to be formed as a mutual insurance company, in addition to the other corporate forms permitted under existing law.

### **Health Care Administration:**

Blanket insurance. These provisions clarify some legal issues relating to blanket insurance. Blanket insurance is a form of health insurance which offers less than the

comprehensive major medical insurance most Vermonters expect when they purchase health insurance. An example might be student health insurance offered through some colleges and universities. Another example might be travel insurance, where coverage is triggered by the occurrence of a medical condition. Some companies are using the “blanket insurance” designation to circumvent Vermont’s laws relating to comprehensive health insurance. This revision will clarify that the designation of “blanket insurance” insurance can be used only in limited types of situations, so that consumers will know when they are purchasing comprehensive health coverage, versus a more limited scope of coverage. The amendment will also clarify which requirements of Vermont’s health insurance code are applicable to blanket insurance.

Mental health parity. This provision addresses a provision in Vermont’s mental health parity law. The federal mental health parity legislation enacted in 2008, and effective January 1, 2010, differs from Vermont’s law in that under federal law an insurer that offers in- and out-of-network coverage with different copayments for physical conditions must do the same for coverage of mental health and substance abuse conditions. The federal law applies only to large groups. This section of the bill will reconcile Vermont’s mental health parity law with the new federal law by making the federal standard for networks and cost-sharing applicable to all markets regulated by the Department, including but not limited to the nongroup, small group and association markets.

Health information technology fee. This provision will move the date for one of the quarterly payments to the HIT Reinvestment Fund from March 1 to April 1 of each year.

Long term care insurance; external appeals. This provision addresses an issue raised by Vermont’s recently adopted administrative rule relating to long term care insurance. The long term care insurance rule contains a provision that permits consumers to seek an independent, external review of an insurer’s adverse benefit trigger determination. This provision will make the long term care external appeals process consistent with the external appeals process for other health insurance denials by requiring the insured to pay a \$15.00 application fee, and by requiring the insurer to pay for all other costs of the external appeal.

Fair contract standards. This provision clarifies legislation enacted last session establishing provider-insurer contracting standards. The amendment requires the insurer to forward to the provider a summary of the contract whenever the contract is “renegotiated”, but no later than July 1, 2014.

Fire safety division. This provision clarifies that legislation passed last year was not intended to repeal a statute requiring the division of fire safety to report periodically on the status of training programs and expenditures.

Effective date. Generally, July 1, 2010. The provisions relating to captive insurance companies, fair contract standards, and the health information technology assessment take effect on passage. The registered agent requirement for financial institutions will take effect on October 1, 2010.

***S.287, Loan servicers***

This legislation establishes a licensing and regulatory system for third party loan servicers. A third party loan servicer is a person that collects residential mortgage loan payments on behalf of the owner of the loan. The third party loan servicer collects the monthly loan payments (including principal, interest, tax escrow amounts, and insurance escrow amounts.) The servicer then makes payments of principal and interest to the owner of the loan and makes payments to other third parties, such as tax and insurance, as required by the loan documents. This legislation requires that third party loan servicers will be licensed and regulated in a manner similar to the way the state regulates licensed lenders and mortgage brokers.

Effective date: January 1, 2011.

Dated at Montpelier, Vermont this 2<sup>nd</sup> day of July, 2010.

  
Michael Bertrand, Commissioner