

SENATE PROPOSAL OF AMENDMENT

H. 438

An act relating to the department of banking, insurance, securities, and health care administration

The Senate proposes to the House to amend the bill as follows:

First: By adding a new Sec. 11a to read as follows:

Sec. 11a. 8 V.S.A. § 12603 is amended to read:

§ 12603. MERCHANT BANKS

* * *

(f) The minimum amount of initial capital for a merchant bank is ~~\$10,000,000.00~~ \$1,000,000.00, all of which ~~at least \$5,000,000.00~~ shall be common stock or equity interest in the merchant bank. ~~The balance may be composed of qualifying subordinated or similar debt~~ A merchant bank may use qualified subordinated debt or senior debt as part of its capital structure above \$1,000,000.00, provided that the amount of subordinated debt or senior debt used as capital above \$1,000,000.00 is not greater than the amount of common stock or equity interest used as capital above \$1,000,000.00. The commissioner, in his or her discretion, may increase the minimum capital required for a merchant bank.

* * *

(m) Any acquisition or change in control of ~~five~~ ten percent or more of the common stock or equity interests in a merchant bank shall be subject to the prior approval by the commissioner. The acquiring person shall file an application with the commissioner for approval. The application shall be subject to the provisions of subchapter 7 of chapter 201 of this title.

(n) The commissioner ~~may~~ shall examine the merchant bank and any person who controls it to the extent necessary to determine the soundness and viability of the merchant bank in the same manner as required by subchapter 5 of chapter 201 of this title.

(o) A merchant bank shall include on all its advertising a prominent disclosure that deposits are not accepted by a merchant bank.

(p) For purposes of this section, "control" means that a person:

(1) directly, indirectly, or acting through another person owns, controls, or has power to vote ten percent or more of any class of equity interest of the merchant bank;

(2) controls in any manner the election of a majority of the directors of the merchant bank; or

(3) directly or indirectly exercises a controlling influence over the management or policies of the merchant bank.

Second: By adding a Sec. 14a to read as follows:

Sec. 14a. REPEAL

8 V.S.A. § 4089f(e) (decisions relating to mental health shall be reviewed under 8 V.S.A. § 4089a) is repealed.

Third: In Sec. 17, 8 V.S.A. § 9456(e) (hospital budget reviews; waiver), in the second sentence, by striking out the words “The rule shall permit the commissioner to waive” in their entirety and inserting in lieu thereof the following: ~~The rule shall permit the commissioner to~~ may waive

Fourth: By adding a Sec. 19a to read as follows:

Sec. 19a. MEDICAL LOSS RATIOS; EMPLOYER DEFINITIONS

For purposes of medical loss ratio calculations only, pursuant to Section 10101(f) of the Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), the term “small employer” means an employer with 50 or fewer employees and the term “large employer” means an employer with 51 or more employees.